



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on 16th December, 2016:—

### BILL NO. 236 OF 2016

*A Bill to consolidate and amend the law relating to merchant shipping to ensure compliance with the country's obligation under the maritime treaties and International Instruments to which India is a party and also to ensure the efficient maintenance of Indian mercantile marine in a manner best suited to serve the national interest.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### PART I

##### PRELIMINARY

1. (1) This Act may be called the Merchant Shipping Act, 2016.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act.

2. (1) Unless otherwise expressly provided, the provisions of this Act shall apply to,—

Application of  
Act.

(a) any vessel which is registered in India; or

(b) any vessel which is required by this Act to be so registered, wherever it may be.

(2) Unless otherwise expressly provided, the provisions of this Act which apply to vessels other than those referred to in sub-section (1) shall so apply only while any such vessel is within India or in waters within the jurisdiction of India.

(3) Subject to sub-section (2) and unless otherwise expressly provided, the provisions of this Act shall not apply to Indian controlled tonnage vessels.

#### Definitions.

**3.** In this Act, unless the context otherwise requires,—

(1) "1992 Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992;

(2) "Anti-Fouling Systems Convention" means International Convention on control of harmful antifouling systems on ships, 2001;

(3) "audit" means a systematic and independent examination to determine whether the Management System as provided in safety convention complies with the planned arrangements and such arrangements are implemented effectively and are sufficient to achieve the desired objectives;

(4) "Ballast Water Management Convention" means the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004;

(5) "certificate of competency" or "certificate of proficiency" means the certificate of competency or certificate of proficiency, as the case may be, granted under sub-section (1) of section 52;

(6) "coasts" include the coasts of creeks and tidal waters.

*Explanation.*—For the purposes of this clause, the expression "tidal waters" means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides and not being a harbor;

(7) "Coasting trade of India" means,—

(a) the carriage by sea of goods, passengers from any port or place in India to any other port or place in India, or

(b) performing any service within waters in the jurisdiction of India, including the zones as defined under the Territorial Water, Continental Shelf, Exclusive Economic Zones and other Maritime Zones of India Act, 1976;

80 of 1976.

(8) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013;

18 of 2013.

(9) "convention" means any International Convention or Treaty or Agreement in relation to maritime matters and their Protocols to which India is a party;

(10) "convention certificate" means a certificate issued under the provisions of any convention;

(11) "court", in relation to any proceedings, includes any court having jurisdiction in the matter to which the proceedings relate;

(12) "Director-General" means the Director-General of Shipping appointed under sub-section (1) of section 6;

(13) "distressed seafarer" means a seafarer engaged under this Act, who by reason of having been discharged or left behind or abandoned from a ship including of any captivity not in accordance with law, or shipwrecked, is in distress;

(14) "equipment", in relation to a vessel, includes boats, tackle, machinery, boilers, cargo handling gear, pumps and any fitting, anchor, propeller, apparels, furniture, life-saving appliances of every description, spars, masts, rigging and sails, fog signals, lights, shapes and signals of distress, medicines and medical and surgical stores and appliances, charts, radio installations, appliances for preventing, detecting or extinguishing fires, buckets, compasses, axes, lanterns, loading and discharging gears and appliances of all kinds and all other stores and spares or articles belonging to or to be used in connection with or necessary for the navigation, propulsion, security, pollution prevention and safety of the vessel;

(15) "family" means —

(i) in the case of male, his wife, his children whether married or unmarried, his dependent parents and his deceased son's widow and children:

Provided that if a person proves that his wife has ceased under the personal law governing him or the customary law of the community to which the spouses belong, to be entitled to maintenance, she shall no longer be deemed to be a part of such person's family for the purposes of this Act, unless such person subsequently intimates by express notice in writing to the Central Government that she shall continue to be so regarded; and

(ii) in the case of female, her husband, her children, whether married or unmarried, her dependent parents, her husband's dependent parents and her deceased son's widow and children:

Provided that if a person by notice in writing to the Central Government expresses her desire to exclude her husband from the family, the husband and his dependent parents shall no longer be deemed to be a part of such person's family for the purpose of this Act, unless such person subsequently cancels in writing any such notice.

*Explanation.*— In either of the above two cases, if the child, or, as the case may be, the child of deceased son of a person has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised, such a child shall be considered as excluded from the family of the first mentioned person;

(16) "fishing vessel" means a vessel which is exclusively engaged in fishing in the seas;

(17) "gross tonnage" means the measure of the overall size of a vessel determined in accordance with the rules made in this behalf;

(18) "High Court", in relation to a vessel, means a High Court within the limits of whose appellate jurisdiction,—

(a) the port of registry of the vessel is situate, or

(b) the vessel is for the time being, or

(c) the cause of action, wholly or in part, arises;

(19) "Indian consular officer" means the consul-general, consul, vice-consul, consular agent and pro consul appointed as such by the Central Government and includes any person authorised by the Central Government to perform the functions of consul-general, consul, vice-consul, consular agent and pro consul;

(20) "Indian controlled tonnage vessel" means an Indian vessel, other than an fishing vessel or sailing vessel, registered at a port or place in a country other than India under sub-section (2) of section 14;

(21) "Indian ship" or "Indian vessel" means a ship or a vessel, as the case may be, which is substantially owned by the person referred to in sub-section (3) of section 14;

(22) "LLMC Convention" means the convention on Limitation of Liability for Maritime Claims, 1976;

(23) "Maritime Labour Convention" means the Maritime Labour Convention, 2006;

(24) "MARPOL Convention" means the International Convention for the Prevention of Pollution from Ships, 1973 and Protocols;

(25) "master" includes any person (except a pilot or a Harbour Master) having command or charge of a vessel;

(26) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(27) "owner", in relation to a vessel, means the person to whom the vessel or a share in the vessel belongs;

(28) "passenger" means any person carried on board a vessel, except—

(a) a person employed or engaged in any capacity on board the vessel on the business of the vessel;

(b) a person on board the vessel either in pursuance of the obligations laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstances which neither the master nor the charterer, if any, could have prevented or forestalled; and

(c) a child under one year of age;

(29) "passenger vessel" means a vessel carrying more than twelve passengers;

(30) "Pollution damage" means,—

(a) loss or damage caused outside the vessel resulting from the escape, emission or discharge of cargo, oil or any other material from the vessel, wherever such escape, emission or discharge may occur, or

(b) the costs of preventive measures and further loss or damage caused by preventive measures;

(31) "Pollution prevention convention" means any convention relating to prevention of pollution from vessels, to which India is a Party; including MARPOL Convention, Anti-fouling Systems Convention and Ballast Water Management Convention;

(32) "port" means the port as defined in clause (4) of section 3 of the Indian Ports Act, 1908;

15 of 1908.

(33) "port authority" means,—

(a) in relation to any major port, the Board of Trustees, or, as the case may be, the Board of Directors, in respect of that port constituted under any law for the time being in force;

(b) in relation to any other port, the conservator of the Port appointed under section 7 of the Indian Ports Act, 1908;

15 of 1908.

(c) in relation to any terminal or place not forming a part of a port, the person under whose supervision the terminal or place is operated;

(34) "port of registry", in relation to a vessel, sailing vessel, fishing vessel or any other vessel, means the port at which she is registered or is to be registered;

(35) "prescribed" means prescribed by rules made under this Act;

(36) "Principal Officer" means an officer referred to in section 9 of this Act;

(37) "proceeding" includes any suit, appeal or application under this Act;

(38) "proper officer" means the officer designated by the Central Government to be the proper officer at the port or place and in respect of the matter to which the reference is made in the provision of this Act, in which the expression occurs;

(39) "proper return port" means such port as is agreed upon by the seafarer, and his employer in the agreement or otherwise, or in the absence of agreement, the port where the seafarer was employed or joined the vessel;

(40) "property", in relation to a seafarer, includes personal effects;

(41) "reception facilities", in relation to a port, terminal, ship yard, ship repair, facility or ship recycling facility, means facilities for enabling vessels using the port, terminal, ship yard, ship repair facility or ship recycling facility to discharge or deposit any substance subject to control by the Pollution prevention conventions;

(42) "Registrar" means the Registrar referred to in section 15;

(43) "registered owner" means the person or persons registered as the owner of the vessel;

(44) "removal" means any form of prevention, mitigation or elimination of the hazard created by a wreck, and the expressions "remove", "removed" and "removing" shall be construed accordingly;

(45) "rule" means the rule made under this Act;

(46) "Safety Convention" means the International Convention for the Safety of Life at Sea, 1974 and its Protocols;

(47) "sailing vessel" means any wooden vessel of primitive build provided with sufficient sail area for navigation under sails alone, whether or not fitted with mechanical means of propulsion, but does not include a pleasure craft.

*Explanation.*— For the purposes of this clause "wooden vessel of primitive build" means a wooden vessel of traditionally built not primarily propelled;

(48) "Salvage" means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever;

(49) "Salvage Convention" means the International Convention on Salvage, 1989;

(50) "salvor" means any person rendering services in direct connection with salvage operation;

(51) "sea-going", in relation to a vessel, means a vessel proceeding or intending to proceed beyond waters declared to be inland waters by the Central Government or State Government by notification;

(52) "seafarer" means any person who is employed or engaged or works in any capacity on board a sea-going vessel, but does not include,—

(i) a person who is in the employment or engagement or work on board in any capacity in a warship or any Government vessel used for military or non-commercial purposes, or

(ii) any other person as the Central Government may, by notification, specify;

(53) "seafarer's employment office" means the seafarer's employment office established under sub-section (1) of section 11;

(54) "seafarer's welfare officer" means the seafarer's welfare officer appointed under sub-section (1) of section 12;

(55) "seaworthy", in respect of a vessel, means, if she is in possession of all valid certificates required under this Act and is in a fit state as to the material, construction, condition of hull and equipment, and machinery; management of safety, security and pollution prevention, the stowage of ballast or cargo, the number, and in every other respect, fit for the voyage or service including with the living and working conditions on board the vessel to not pose a threat to the health, safety or welfare of the vessel's seafarers;

(56) "ship" means any watercraft, used or capable of being used in navigation by its own propulsion, in, above, or under the water, but does not include fishing vessels or sailing vessels;

(57) "ship owner" means the owner including the registered owner, bareboat charterer, manager and operator of the vessel;

(58) "shipping master" means the shipping master appointed under section 10:

Provided that in relation to any seafarer for the purposes of section 89, means a shipping master referred to in that section,—

(a) for the port at which the seafarer entered into, or is believed to have entered into, an agreement, or

(b) where the seafarer did not enter into his agreement in India, for the port to which the seafarer has returned, or is expected to return, on the completion of his latest voyage;

(59) "shipping office" means the shipping office established under section 10;

(60) "special trade" means the conveyance of large number of passengers by sea within the areas specified in the STP Agreement.

*Explanation.*—The expression "STP Agreement" means the Special Trade Passenger Ship Agreement, 1971 and Protocol on Space Requirement for Special Trade Passenger Ships, 1973;

(61) "special trade passenger" means a passenger carried in special trade passenger vessel in spaces on the weather deck or upper deck or between decks which accommodate more than eight passengers;

(62) "special trade passenger ship" means a mechanically propelled ship carrying more than thirty special trade passengers;

(63) "STCW Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978;

(64) "surveyor" means a person appointed under sub-section (1) of section 7;

(65) "tanker" means a vessel constructed or adapted primarily to carry liquid or gas in bulk in its cargo space and includes combination carriers and any other type of vessel when it is carrying a cargo or part cargo of liquid or gas in bulk;

(66) "tindal" means the person in command or charge of a sailing vessel;

(67) "Tribunal" means the Tribunal constituted under sub-section (1) of section 83;

(68) "unseaworthy vessel" is a vessel which is not seaworthy;

(69) "vessel" includes every description of water craft used or capable of being used in the marine environment, such as ship, boat, sailing vessel, fishing vessel, submersible, semi-submersible, hydrofoils, non-displacement crafts, amphibious crafts, wing-in-ground crafts, pleasure crafts, barges, lighters, Mobile Offshore Drilling Units, Mobile Offshore Units, or of any other description;

(70) "wages" include emoluments;

(71) "wreck" includes the following on a maritime casualty, namely:—

(a) a sunken or stranded vessel;

(b) any part of a sunken or stranded vessel, including any object or goods or cargo that is or has been on board such a vessel;

(c) any object or goods or cargo that is lost at sea from a vessel and that is stranded, sunken or adrift at sea;

(d) a vessel that is in distress or is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the vessel or any property in danger are not already being taken; or

(e) a vessel abandoned without hope or intention of recovery.

## PART II

### ESTABLISHMENT OF BOARD AND GENERAL ADMINISTRATION

#### CHAPTER I

##### ESTABLISHMENT OF NATIONAL SHIPPING BOARD AND SEAFARERS WELFARE BOARD

4. (1) The Central Government may, by notification, establish a National Shipping Board (hereinafter referred to as the Shipping Board) for the purposes of this Act.

Establishment  
of National  
Shipping  
Board.

(2) The Shipping Board shall consist of the following members, namely:—

(a) six members of Parliament of whom four shall be elected from amongst themselves by members of the House of the People and two from among themselves by the members of the Council of States,

(b) such number of other members, not exceeding sixteen as the Central Government may think fit to appoint to the Shipping Board, to represent,—

(i) the Central Government,

(ii) ship-owners,

(iii) seafarers, and

(iv) such other interest as in the opinion of the Central Government ought to be represented on the Shipping Board:

Provided that the Shipping Board shall include an equal number of persons representing the ship owners and seafarers.

(3) The term of a member elected under clause (a) of sub-section (2) shall come to an end as soon as he ceases to be a member of the House from which he was elected.

(4) The Central Government shall nominate one of the members of the Shipping Board to be the Chairperson of the Shipping Board.

(5) The Shipping Board shall advise the Central Government,—

(a) on matters relating to Indian shipping including the development thereof; and

(b) on such other matters arising out of this Act as the Central Government may refer to it for advice.

(6) The Shipping Board shall have power to regulate its own procedure.

(7) The Central Government may make rules for all or any of the following matters, namely:—

(a) the term of office of members of the Shipping Board;

(b) the manner of filling vacancies in the Shipping Board;

(c) the travelling allowances and other allowances payable to the members of the Shipping Board;

(d) the manner of appointment of officers and other employees of the Shipping Board and the terms and conditions of their service.

Constitution  
of Seafarer  
Welfare Board.

5. (1) The Central Government may, by notification, constitute a Seafarers Welfare Board (hereinafter referred to as the Welfare Board) for the purposes of advising the Central Government on the measures to be taken for promoting the welfare of the seafarer under this Act, generally and in particular the following matters, namely:—

(a) the establishment of hostels or boarding and lodging houses for seafarer;

(b) the establishment of clubs, canteens, libraries and other like amenities for the benefit of seafarer;

(c) the establishment of hospital and provision of medical treatment for seafarer;

(d) the provision of educational and other facilities for seafarer;

(e) the measures to be taken for welfare of distressed seafarer;

(f) the measures to be taken in the case of seafarer who is a foreigner but abandoned in the waters within the jurisdiction of India;

(g) any other measures to be taken for promoting the welfare of seafarer.

(2) The Central Government may make rules providing for,—

(a) the composition of the Welfare Board and the term of office of members thereof;

(b) the procedure to be followed in the conduct of business by the Welfare Board;

(c) the travelling and other allowances payable to the members of the Welfare Board;

(d) the rate of levy of fee payable by owners of vessels for the purposes of providing amenities to seafarer and for taking other measures for the welfare of the seafarer;

(e) the procedure by which any such fee may be collected or recovered and the manner in which the proceeds of such fees, after deduction of the cost of collection, shall be utilised for the purpose specified in clause (d).

## CHAPTER II

### GENERAL ADMINISTRATION

Director-  
General of  
Shipping.

6. (1) The Central Government may, by notification, appoint a person to be the Director-General of Shipping for the purposes of exercising or discharging the powers, authority or duties conferred on or imposed by or under this Act.

(2) The Central Government may, by general or special order, direct that any power, authority or jurisdiction exercisable by it under or in relation to any such provisions of this

Act as may be specified in the order shall, subject to such conditions and restrictions as may be so specified, be exercisable also by the Director-General or such other officer as may be specified in the order.

(3) The Director-General may, with the previous approval of the Central Government, by general or special order, direct that any power or authority conferred upon or delegated to, and any duty imposed upon him by or under this Act may, subject to such conditions and restrictions as he may think fit to impose, be exercisable or dischargeable also by such officer or other authority as he may specify in this behalf.

(4) Every officer appointed under this Act shall discharge his functions under the general superintendence and control of the Director-General.

7. (1) The Central Government may, by notification, appoint at such port or place as it may consider necessary, as many persons as it may think fit to be surveyors for the purposes of this Act.

Surveyor.

(2) Without prejudice to the provisions of sub-section (1), in case of cargo vessel, the Central Government, may, by notification, authorise any person or body of persons, on such terms and conditions as may be specified therein, to be surveyor or surveyors for the purposes of this Act.

*Explanation.*— For the purposes of this sub-section, "cargo vessel" means a vessel which is not a passenger vessel.

(3) The surveyor shall be nautical surveyor, ship surveyor, engineer and ship surveyor or junior ship surveyor and includes Deputy Nautical Advisor, Deputy Chief Surveyor, Deputy Chief Ship Surveyor, Principal Officer, Chief Ship Surveyor, Chief Surveyor and Nautical Advisor.

(4) At any port or place at which no surveyor appointed under this section is available, the Central Government may, by notification, appoint any qualified person to perform the functions of a surveyor under this Act.

8. The Central Government may, by notification, appoint, as many Radio Inspectors as it may consider necessary for the purpose of securing that the requirements of this Act and the rules made thereunder relating to radio communication are complied with.

Radio  
Inspector.

9. (1) The Central Government may establish and maintain at the ports of Mumbai, Kolkata, Chennai, Kochi, Kandla and such other ports or places in India, as it may consider necessary, an office of the Mercantile Marine Department for the administration of this Act and the rules made thereunder.

Mercantile  
Marine  
Department.

(2) The office of the Mercantile Marine Departments at the ports of Mumbai, Kolkata, Chennai, Kochi, Kandla and any other port or place as notified by the Central Government shall be in the charge of the Principal Officer, and the office at any other port or place shall be in the charge of such officer as the Central Government may appoint in this behalf.

10. (1) The Central Government may, by notification, establish a shipping office at every port in India in which it thinks it necessary so to do, and shall appoint thereto a shipping master and as many deputy shipping masters and assistant shipping masters as it may consider necessary.

Shipping  
Office.

(2) The Central Government may direct that at any port at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the Mercantile Marine Department, or at the office of the port officer or at such other office as the Central Government may specify, and thereupon the same shall be conducted accordingly.

(3) All acts done by or before a deputy shipping master, an assistant shipping master and the officer to whom any business of the shipping office is committed under sub-section (2) shall have the same effect as if done by or before a shipping master for the purposes of this Act.

Seafarer's  
Employment  
Office.

**11.** (1) The Central Government may, by notification, establish at every port in India in which it thinks it necessary so to do, a seafarer's employment office and shall appoint thereto a director and as many deputy directors and assistant directors as it may consider necessary.

(2) All acts done by or before a deputy director or assistant director shall have the same effect as if done by or before a director for the purposes of this Act.

(3) The Central Government may, by notification, direct that at any port at which no separate seafarer's employment office is established, the functions of the seafarer's employment office in that port shall be discharged by such person or body of persons as it may specify in the notification, and thereupon the office of the person or body of persons so specified shall be deemed to be the seafarer's employment office established at that port for the purposes of this Act.

*Explanation.*—For the removal of doubts, it is hereby clarified that, on and from the date of commencement of this Act, all the existing seamen's employment offices shall be deemed to have been established as the seafarer employment offices under sub-section (1) of this section.

Seafarer's  
welfare  
officer.

**12.** (1) The Central Government may appoint seafarer's welfare officers at such ports in or outside India as it may consider necessary.

(2) A seafarer's welfare officer appointed under sub-section (1) shall perform,—

(a) in the case of any such officer appointed at any port in India, such functions in relation to welfare of seafarers as may be assigned to him by the Central Government;

(b) in the case of any such officer appointed at any port outside India, such functions in relation to welfare of seafarers and such functions of an Indian consular officer under Part V as may be assigned to him by the Central Government.

(3) If any seafarer's welfare officer appointed at any port outside India performs any functions assigned to an Indian consular officer under Part V, such functions shall have the same effect as if they had been performed by an Indian consular officer for the purposes of that Part.

*Explanation.*—For the removal of doubts, it is hereby clarified that, on and from the date of commencement of this Act, all the seamen's employment officers shall be deemed to have been appointed as seafarer's welfare officers under sub-section (1) of this section.

### PART III

#### REGISTRATION OF VESSELS

Application of  
Part.

**13.** This Part shall apply to sea-going vessels.

#### CHAPTER I

##### REGISTRATION OF INDIAN VESSELS

Obligation to  
register.

**14.** (1) Every Indian vessel, shall be registered under this Part at a port or place in India, as the Central Government may, by notification, declare to be a port of registry under this Act:

Provided that the vessels registered under the provisions of the Coasting Vessels Act, 1838 shall be re-registered under the provisions of this Part within a period of one year from the date of coming into force of this Part:

19 of 1838.

Provided further that any vessel registered on the commencement of this Act at any port in India under any enactment repealed by this Act, except the vessels registered under the Coasting Vessel Act, 1838, shall be deemed to have been registered under this Part and shall be recognised as an Indian vessel:

19 of 1838.

Provided also that, subject to any exemptions or modifications, as the case may be, made by the Central Government, all vessels belonging to the Government, other than vessels

of the Indian Navy, Indian Coast Guard, Customs Authorities, Central Paramilitary Forces, Coastal Police and other Police Agencies, shall be registered under this Act.

(2) Notwithstanding anything contained in sub-section (1), an Indian vessel, may be, subject to such conditions as may be prescribed, registered in a country other than India.

(3) No vessel shall be an Indian vessel or an Indian controlled tonnage vessel unless such vessel is substantially owned by any of the following persons, namely:—

(a) a citizen of India; or

(b) a company or a body established by or under any Central Act or State Act which has its principal place of business in India; or

(c) a co-operative society registered or deemed to be registered under the Co-operative Societies Act, 1912 or any other law relating to a co-operative society for the time being in force in any State.

2 of 1912.

*Explanation.*—For the purposes of this sub-section, "substantially owned" means having more than fifty per cent. of the shares of the ownership of the vessel.

(4) If an Indian vessel is proceeding to sea without its valid certificate of registry, such Indian vessel shall be detained until it produces its valid certificate of registry to the proper officer.

**15. (1)** At any port, the Principal Officer of the Mercantile Marine Department, shall be the Registrar of Indian vessels at that port, and at any other place in India such authority as the Central Government may, by notification, appoint, shall be the Registrar of Indian vessels at that place.

Registrar of Indian vessels.

(2) Every Registrar shall keep a register book and entries in that book be made, and maintain the records of vessels registered under the provisions of this Act, in such manner as may be prescribed.

**16.** An application for the registry of an Indian vessel shall be made to the Registrar in such form and manner as may be prescribed.

Application for registry.

**17. (1)** The owner of every Indian vessel in respect of which an application for registry is made shall cause such vessel to be marked, surveyed and measured by a surveyor and the tonnage of the vessel ascertained before registry in such manner as may be prescribed.

Marking, survey and measurement of vessels before registry.

(2) The surveyor shall grant a certificate specifying the tonnage, build and such other particulars descriptive of the identity of the vessel as may be prescribed and the certificate of the surveyor shall be delivered to the Registrar before registry.

**18. (1)** Where it appears to the Registrar that there is any doubt as to the title of any Indian vessel to be registered as an Indian vessel, he may require evidence to be given to his satisfaction that the vessel is entitled to be registered as an Indian vessel.

Power of Registrar to inquire into title of Indian vessel to be so registered.

(2) If no evidence is given to the satisfaction of the Registrar that the vessel is entitled to be registered as an Indian vessel under sub-section (1), the vessel shall be liable to forfeiture.

**19. (1)** On completion of the registry of an Indian vessel, the Registrar shall grant a certificate of registry containing the particulars respecting her as entered in the register book.

Grant of certificate of registry.

(2) A tonnage certificate shall be issued to every vessel, the gross tonnage and net tonnage of which have been determined in accordance with the provisions of this Act.

(3) In the event of the certificate of registry of an Indian vessel being defaced or mutilated, the Registrar of her port of registry may, on the delivery to him of that certificate or on submission of a declaration by the owner to the effect that certificate has been lost or destroyed, grant a new certificate in lieu of her original certificate.

*Explanation.*—For the purposes of this section "net tonnage" means the measure of the useful capacity of a vessel determined in accordance with the rules made in this behalf.

Custody and use of certificate.

**20.** (1) The certificate of registry shall be used only for the lawful navigation of the vessel, and shall at all times remain in the custody of the person in charge of the vessel, and shall not be subject to detention by reason of any title, lien, charge or interest whatever, had or claimed by any owner, mortgagee or other person to, on or in the vessel.

(2) No person, whether interested in a vessel or not who has in his possession, or under his control the certificate of registry of a vessel, shall refuse or omit without reasonable cause to deliver such certificate on demand to the person entitled to the custody thereof for the purposes of the lawful navigation of the vessel, or to any Registrar or other person entitled by law to require such delivery.

(3) If the master or owner of an Indian vessel uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the vessel, he shall be guilty of an offence under this sub-section and the vessel shall be liable to forfeiture.

Endorsement on certificate of change of ownership.

**21.** Whenever a change occurs in the registered ownership of an Indian vessel, the owner of the Indian vessel shall, for the purpose of endorsement of change of ownership, deliver the certificate of registry to the Registrar who shall make an endorsement for that purpose in such manner as may be prescribed.

Delivery of certificate of vessel lost or ceasing to be an Indian vessel.

**22.** In the event of a registered vessel being either actually or constructively lost, taken by the enemy, burnt or broken up or ceasing for any reason to be an Indian vessel, or is to be registered under any other law for the time being in force at the relevant time, every owner of such vessel shall immediately on obtaining knowledge of the event, if no notice thereof has already been given to the Registrar, give notice thereof to the Registrar at her port of registry and that Registrar shall make an entry thereof in the register book and its registry in that book shall be considered as closed except so far as relates to any unsatisfied mortgages entered therein.

Provisional registration of Indian vessel.

**23.** (1) If at any port or place a vessel becomes entitled to be registered as an Indian vessel,—

(a) the Registrar; or

(b) Indian Consular officer; or

(c) a person authorised by the Central Government,

may issue a provisional certificate of registry for a period not exceeding six months in accordance with such procedure as may be prescribed and such provisional certificate of registry shall have the effect of a certificate of registry:

Provided that the Registrar may extend the validity of the provisional registry for a further period not exceeding three months.

(2) The provisional certificate issued under sub-section (1) shall be delivered to the Registrar for cancellation where a vessel has been permanently registered.

(3) Where a vessel has been provisionally registered and its registry is not completed within the period specified in sub-section (1), the provisional registry of the vessel shall be deemed to be closed (except in relation to any unsatisfied mortgages entered therein), and the Registrar shall make an entry thereof in the register.

Transfer of Indian vessel or shares.

**24.** (1) No person shall transfer or acquire any Indian vessel or any share or interest therein at any time during which the security of India or any part of the territory thereof is threatened by war or external aggression and a proclamation of emergency issued under clause (1) of article 352 of the Constitution is in operation without the previous approval of the Central Government and any transaction effected in contravention of this provision, shall be void and unenforceable.

(2) The Central Government may, if it considers necessary or expedient so to do for the purpose of conserving the tonnage of Indian shipping, by order, refuse to give its approval to any such transfer or acquisition.

(3) No transfer or acquisition of any Indian vessel shall be valid unless,—

(a) all mortgage entered in its register, are satisfied or, the mortgagee and the new owner have given their consent in writing for the transfer of vessel;

(b) all wages and other amounts due to seafarer in connection with their employment on that vessel have been paid in accordance with the provisions of this Act;

(c) any subsisting entry has been made of any court order prohibiting transfer or any dealing with that vessel;

(d) any unpaid statutory fees that may be levied on the vessel and has been informed in writing to the Registrar.

(4) Subject to the other provisions contained in this section, an Indian vessel or a share therein shall be transferred only by an instrument in writing.

(5) The instrument shall contain such description of the Indian vessel as is contained in the surveyor's certificate or some other description sufficient to identify the vessel to the satisfaction of the Registrar and shall be in such form as may be prescribed and shall be executed by the transferor in the presence of and be attested by at least two witnesses.

**25.** (1) Every instrument for the transfer of an Indian vessel or of a share therein when duly executed shall be produced to the Registrar of her port of registry, and the Registrar shall thereupon enter in the register book the name of the transferee as owner of the vessel or share, as the case may be, and shall endorse on the instrument the fact of that entry having been made with the day and hour thereof.

Registry of transfer.

(2) Every such instrument shall be entered in the register book in the order of its production to the Registrar.

**26.** (1) Where the property in an Indian vessel or share therein is transmitted to a person on the death or insolvency of any registered owner, or by any lawful means other than by a transfer under this Act,—

Transmission of property in Indian vessel on death, insolvency, etc.

(a) that person shall authenticate the transmission by making and signing a declaration in such form as may be prescribed (in this Act referred to as a declaration of transmission) identifying the vessel and also a statement of the manner in which and the person to whom the property has been transmitted;

(b) if the transmission is consequent on insolvency, the declaration of transmission shall be accompanied by proper proof of such claim;

(c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by a succession certificate, probate or letters of administration, as the case may be, under the Indian Succession Act, 1925 or a duly certified copy thereof.

39 of 1925.

(2) The Registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person entitled under the transmission as owner of the vessel or share therein which has been transmitted, and, where there are more persons than one, shall enter the names of all those persons, but those persons however numerous shall, for the purpose of the provisions of this Act with respect to the number of persons claiming to be registered as owners, be considered as one person:

Provided that nothing in this sub-section shall require the Registrar to make an entry in the register book under this section, if he is of opinion that by reason of the transmission the vessel has ceased to be an Indian vessel.

Order for sale where vessel has ceased to be an Indian vessel.

**27.** (1) Where by reason of the transmission of any property in a vessel or a share therein on death, insolvency or otherwise, a vessel ceases to be an Indian vessel, the Registrar of the port of registry shall submit a report to the Central Government setting out the circumstances in which the vessel has ceased to be an Indian vessel.

(2) The Central Government may, within a period of thirty days from the date of receipt of report, under sub-section (1), make an application to the High Court for a direction for the sale to any citizen of India or any company or body or co-operative society:

Provided that an application may be admitted after the expiry of the period of thirty days if the Central Government satisfies the High Court that it had sufficient cause for not making the application within the said period.

(3) The High Court may require any evidence in support of the application as it thinks requisite and may make such order thereon and on such terms and conditions as it thinks just or may reject the application in case it finds that the vessel has not ceased to be an Indian vessel, and in case the vessel or the share is ordered to be sold, it shall direct that the proceeds of the sale after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise.

Transfer of vessel on sale by order of court.

**28.** Where any court, whether under section 27 or otherwise, orders the sale of any vessel or share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that vessel or share, and that person shall thereupon be entitled to transfer the vessel or share in the same manner and to the same extent as if he were the registered owner thereof, and every Registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

Mortgage of vessel or share.

**29.** (1) A registered vessel or a share therein may be made a security for a loan or other valuable consideration, and the instrument creating the security (in this Act called a mortgage) shall be in such form as may be prescribed, and on the production of such instrument, the Registrar shall record it in the register book.

(2) Except in so far as may be necessary for making a mortgaged vessel or share available as a security for the mortgage debt, the mortgagee shall not, by reason of his mortgage, be deemed to be the owner of the vessel or share, nor shall the mortgagor be deemed to have ceased to be owner thereof.

(3) Where a registered mortgage is discharged, the Registrar shall, on the production of the mortgage deed with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged, and on that entry being made the estate, if any, which passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any) it would have vested, if the mortgage had not been made.

(4) If there are more mortgages than one recorded in respect of the same vessel or share, the mortgagees shall, notwithstanding any express, implied or constructive notice, have priority according to the date and time on which each mortgage is recorded in the register book and not according to the date of each mortgage itself.

Rights of mortgagee.

**30.** (1) Where there is only one registered mortgagee of a vessel or share, he shall be entitled to recover the amount due under the mortgage by selling the mortgaged vessel or share without approaching the High Court:

Provided that nothing contained in this sub-section shall prevent the mortgagee from recovering the amount so due in the High Court as provided in sub-section (2).

(2) Where there are two or more registered mortgagees of a vessel or share they shall be entitled to recover the amount due under the mortgage in the High Court.

(3) Every registered mortgagee of a vessel or share who intends to recover the amount due under the mortgage by selling the mortgaged vessel or share under sub-section (1) shall give an advance notice of fifteen days relating to such sale to the Registrar of the vessel's port of registry.

(4) The notice under sub-section (3) shall be accompanied with the proof of payment of the wages.

**31.** A registered mortgage of a vessel or share shall not be affected by any act of insolvency committed by the mortgagor after the date of the record of such mortgage, notwithstanding that the mortgagor, at the commencement of his insolvency, had the vessel or share in his possession, order or disposition, or was the reputed owner thereof, and the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the insolvent or any trustee or assignee on their behalf.

Mortgage not affected by insolvency.

**32.** (1) A registered mortgage of a vessel or share may be transferred to any person and the instrument effecting the transfer shall be in such form as may be prescribed or as near thereto as circumstances permit, and on the production of such instrument, the Registrar shall record it by entering in the register book the name of the transferee as mortgagee of the vessel or share and shall, by memorandum under his hand, notify on the instrument of transfer that it has been recorded by him stating the day and hour of the record.

Transfer of mortgages.

(2) The person to whom any such mortgage has been transferred shall enjoy the same right of preference as was enjoyed by the transferor.

**33.** (1) Where the interest of a mortgagee in a vessel or share is transmitted on death, or insolvency, or by any lawful means other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted containing a statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of a vessel or share.

Transmission of interest in mortgage in certain circumstances.

(2) The Registrar, on receipt of the declaration and the production of the evidence referred to in sub-section (1), shall enter the name of the person entitled under the transmission in the register book as mortgagee of the vessel or share.

**34.** Every Indian vessel shall be described by such name, call sign and official number in such manner as may be prescribed.

Description of name, call sign and an official number of Indian vessel.

**35.** When a registered vessel is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if the alteration is made at any port having a Registrar, that Registrar, or if it is made elsewhere, the Registrar of the first port having a Registrar at which the vessel arrives after the alteration, shall, on an application being made to him by the owner stating the particulars of the alteration, either cause the alteration to be registered or direct that the vessel be registered anew.

Registry of alterations.

**36.** Where any Registrar, not being the Registrar of the vessel's port of registry, on an application as to an alteration in a vessel directs the vessel to be registered anew, he shall either grant a provisional certificate describing the vessel as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

Provisional certificate and endorsement where vessel is to be registered anew.

Registry anew  
on change of  
ownership.

**37.** Subject to the other provisions contained in this Act, where the ownership of any Indian vessel is changed, the Registrar of the port at which the vessel is registered may, on the application of the owner of the vessel, register the vessel anew in such manner as may be prescribed, although registry anew is not required under this Act.

Transfer of  
registry.

**38.** The registry of any vessel may be transferred from one port of registry to another on an application to the Registrar of the existing port of registry of the vessel made by declaration in writing of all persons appearing in the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

Restrictions  
on re-registry  
of abandoned  
vessel.

**39.** Where a vessel has ceased to be registered as an Indian vessel by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy, the vessel shall not be re-registered until she has, at the expense of the applicant for the registry, been surveyed by a surveyor and certified by him to be seaworthy.

National  
colours for  
Indian vessels.

**40.** (1) The Central Government may, by notification, declare the proper national colours for all Indian vessels and for all vessels owned by the Government and different colours may be declared for different classes of vessels.

(2) Vessels registered under this Part shall hoist the proper national colours,—

(a) on a signal being made to her by any vessel of the Indian Navy or Indian Coast Guard;

(b) on entering or leaving any port.

(3) Any commissioned officer of the Indian Navy, any officer of the Indian Coast Guard, a surveyor or any Indian consular officer, as the case may be, may board any vessel on which any colours are hoisted contrary to this Act and seize and take away the colours which shall be forfeited to the Government.

(4) No person on board a vessel which is not an Indian vessel shall, for the purpose of making it appear to be an Indian vessel, use the Indian national colours, unless the assumption of Indian character has been made for the purpose of escaping capture by the enemy or by a foreign vessel of war in the exercise of some belligerent right.

Concealment  
of Indian, or  
assumption  
of foreign,  
character.

**41.** No owner or master of an Indian vessel shall knowingly do anything or permit anything to be done, or carry or permit to be carried any papers or documents, with intent to conceal the Indian character of the vessel from any person entitled by any law for the time being in force to inquire into the same, or with intent to assume a foreign character for the vessel, or with intent to deceive any person so entitled.

Liabilities of  
vessel not  
recognised as  
Indian vessel.

**42.** Where it is declared by this Act that an Indian vessel shall not be recognised as such, that vessel shall not be entitled to any privileges, benefits, advantages or protection usually enjoyed by Indian vessel or to use the Indian national colours for Indian vessel or to assume the Indian national character:

Provided that for the payment of dues the liability to fine and forfeiture and the punishment of offences committed on board such vessel, or by any person belonging to her, such vessel shall be dealt with in the same manner in all respects as if she were a recognised Indian vessel.

Proceedings  
on forfeiture  
of vessel.

**43.** Where any vessel has either wholly or as to any share therein become subject to forfeiture under this Part, any commissioned officer of the Indian Navy, Indian Coast Guard, any Indian consular officer or any other officer authorised by the Central Government, may seize and detain the vessel, and bring her for adjudication before the High Court, and the High Court may thereupon adjudge the vessel with her equipment to be forfeited to the Government, and make such order in the case as to the High Court seems just and may award to the officer bringing in the vessel for adjudication such portion of the proceeds of the sale of the vessel or any share therein as the High Court thinks fit.

**44.** Where any person is beneficially interested otherwise than by way of mortgage in any vessel or share in a vessel registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all the pecuniary penalties imposed by this or any other Act on the owners of vessel or shares therein, without prejudice that proceedings for the enforcement of any such penalties may be taken against both or either of the said parties jointly or severally.

Liability of owners.

**45. (1)** A person may on application to the Registrar and on payment of such fees as may be prescribed, inspect any register book, and may obtain a certified copy of any entry in the register book.

Evidence of register book, certificate of registry and other documents.

(2) A certified copy of an entry in a register book shall be admissible in evidence in any court and have the same effect to all intents as the original entry in the register book of which it is a copy.

**46. (1)** The owner of an Indian vessel may make an application to the Registrar to close its registry provided that, if there is no,—

Closure of registry.

(a) unsatisfied mortgage entered in its register; or

(b) outstanding claims of the master or seafarer of the vessel in respect of wages which have been intimated.

(2) The owner of an Indian vessel shall, for the purposes of sub-section (1), specify the name of the vessel, the intended port and country of registry (if applicable) or otherwise the reason for the closure in the application and shall be submitted to the Registrar along with the certificate of registry of the vessel.

(3) On receipt of the application under sub-section (1) and the certificate of registry under sub-section (2), the Registrar shall, if he is satisfied, by an order, close the registry of the vessel and make an entry thereof in the register.

*Explanation.*—For the purposes of this section, "owner" includes any transferee of, or any person entitled under a transmission to the property in, an Indian vessel.

## CHAPTER II

### REGISTRATION OF VESSELS ON BAREBOAT CHARTER-CUM-DEMISE BY INDIAN CHARTERER

**47.** This Chapter shall apply to any vessel registered under the law of any country other than India and chartered by an Indian charterer on bareboat charter-cum-demise contract.

Application of this Chapter.

**48.** In this Chapter unless the context otherwise requires,—

Definitions.

(a) "bareboat charter-cum-demise contract" means a written contract for chartering a vessel on bareboat charter-cum-demise;

(b) "charter period" means the period during which the vessel is chartered on bareboat charter-cum-demise contract;

(c) "Indian charterer" means a person referred to in clause (a) or clause (b) or clause (c) of sub-section (3) of section 14 who has chartered a vessel on bareboat charter-cum-demise contract.

**49. (1)** The vessel chartered on bareboat charter-cum-demise by an Indian charterer may be registered under this Chapter.

Registration of vessel chartered on bareboat charter-cum-demise.

(2) The procedure for registration of the vessel chartered on bareboat charter-cum-demise shall be such as may be prescribed.

(3) The bareboat charter-cum-demise contract shall include the following provisions, namely:—

(a) the period for hiring the vessel chartered on bareboat charter-cum-demise shall be for not less than three years;

(b) the possession and control of the vessel chartered on bareboat charter-cum-demise, including the right to appoint its master and other seafarers, shall vest with the Indian charterer; and

(c) the ownership of the vessel chartered on bareboat charter-cum-demise, after the charter period shall stand transferred to the Indian charterer.

(4) The registration of a vessel chartered on bareboat charter-cum-demise shall remain in force till the end of the charter period:

Provided that if any provision of this Act is violated, the registration of such vessel may be closed before the chartered period.

(5) The Registrar shall, after registration or closure of registration of a vessel chartered on bareboat charter-cum-demise contract, send the information of such registration or closure, as the case may be, to the authority of registration of the country where such vessel is registered.

(6) The vessel chartered on bareboat charter-cum-demise registered under this Chapter shall be an Indian vessel entitled to fly the Indian flag.

(7) If the bareboat charter-cum-demise contract is terminated before the charter period due to breach of the agreement or any other reason, the Indian charterer shall inform the Registrar and, on receipt of such information, the Registrar shall close the registry and forward the information to the authority of registration of the country where such vessel is registered.

(8) Notwithstanding anything contained in this Act, the provisions relating to the owner of an Indian vessel under this Act shall, subject to such modification as the Central Government may consider necessary, apply to the Indian charterer for the vessels registered under this Chapter.

Power to make rules in respect of matters in this Part.

**50.** (1) The Central Government may make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the conditions for registration of an Indian vessel, under sub-section (2) of section 14;

(b) the manner of keeping the register book and making entries therein and maintenance of the records of vessels registered under this Act under sub-section (2) of section 15;

(c) the form and manner of making application for registry of an Indian vessel under section 16;

(d) the manner of marking, survey, measurement and ascertainment of tonnage of an Indian vessel under sub-section (1) of section 17;

(e) the other particulars descriptive of the identity of vessel under sub-section (2) of section 17;

(f) the manner of making endorsement under section 21;

(g) the procedure for issuing a provisional certificate of registry under sub-section (1) of section 23;

(h) the form of instrument for description of vessel under sub-section (5) of section 24;

(i) the form for making and signing a declaration under clause (a) of sub-section (1) of section 26;

(j) the form of mortgage under sub-section (1) of section 29;

(k) the form of instrument effecting the transfer under sub-section (1) of section 32;

(l) the manner of description of the name, call sign and official number of Indian vessel under section 34;

(m) the manner of registration of vessel anew under section 37;

(n) the fee for inspection of register book and a certified copy of any entry of the register book under sub-section (1) of section 45;

(o) the procedure for registration of vessel chartered on bareboat charter -cum-demise under sub-section (2) of section 49;

(p) any other matter which is required to be or may be prescribed.

#### PART IV

##### CERTIFICATE OF COMPETENCY AND CERTIFICATE OF PROFICIENCY

**51.** (1) Every Indian vessel shall be provided the seafarers with such manning scale as may be prescribed.

Certificates to be held by seafarers.

(2) The seafarer shall hold such certificate of a grade appropriate to his station in the vessel or of a higher grade as may be prescribed:

Provided that in relation to different categories of vessel, areas and types of operations there shall be provided such different manning scales as may be prescribed:

Provided further that subject to such conditions and restrictions as may be prescribed, the Indian national with foreign certificates of competency or foreign national with certificate of competency issued under this Act or foreign certificate of competency, may serve on Indian vessels.

(3) Every vessel, whether at sea or in any port or place, shall be manned by such number of persons with such qualifications as may be prescribed.

**52.** (1) The Central Government shall, subject to the provisions of STCW Convention, grant a certificate of competency or certificate of proficiency, as the case may be, for such different grades of seafarers with such requirements and such procedures as may be prescribed.

Certificate of competency and certificate of proficiency.

(2) No certificate of competency or certificate of proficiency shall be granted, under sub-section (1) unless the seafarer fulfils the requirements in respect of service, age limit, medical fitness, training, qualifications and examination in accordance with the STCW Convention.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Central Government may grant such other certificate of competency or certificate of proficiency with such requirements and procedures as may be prescribed.

(4) A certificate of competency or certificate of proficiency, as the case may be, granted under sub-sections (1), (2) and (3) shall be in such form and on payment of such fee and valid for such period as may be prescribed, and record of such certificate shall be kept in such manner as may be prescribed.

**53.** (1) The Director-General shall administer, supervise and monitor all activities relating to training and assessment for grant of certificate of competency or certificate of proficiency.

Training for grant of certificate of competency and certificate of proficiency

(2) The Director-General shall approve the training institute, training courses and method of conduct of such training course for grant of certificate of competency or certificate of proficiency under section 52:

Provided that no certificate of competency or certificate of proficiency shall be granted, unless the training required for such certificate has been imparted in accordance with the provisions of this section.

(3) The Director-General may, for the purposes of this Part authorise any person to inspect any maritime training institute and the person so authorised in this behalf shall submit the report to the Director-General.

(4) The Director-General may, after receipt of the inspection report under sub-section (3), if he is satisfied that the maritime training institute has contravened any provisions of this Part, after giving an opportunity of being heard, suspend or withdraw the approval granted to such maritime training institutes under sub-section (2).

Examinations  
for grant of  
certificates.

**54. (1)** The Central Government shall appoint a person for the purposes of examining the qualifications of persons desirous of obtaining certificates under section 52.

(2) The manner of conducting examination for certificate of competency or certificate of proficiency, the fee to be charged and the payment to be made to the examiners appointed under sub-section (1) shall be such as may be prescribed.

(3) The Central Government shall grant a certificate of competency or certificate of proficiency, as the case may be, to every applicant, who is duly reported by the examiners appointed under sub-section (1) to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board vessel:

Provided that the Central Government may, if it has reason to believe that the report has been unduly made, before granting a certificate, require a re-examination of the applicant including the inquiry into the applicant's testimonials and character.

(4) If it appears to the Central Government that a person holding a certificate granted under sub-section (1) or sub-section (3) of section 52 has obtained it on the basis of false or erroneous information, or is guilty of misconduct or on receipt by the Central Government of any report of incompetency, or any act of omission or commission or compromise to safety, security or prevention of pollution by the person holding a certificate which may pose a threat to life or property or environment, it may, after due investigation, by order, withdraw, suspend or cancel such certificate:

Provided that no order shall be passed under this sub-section without giving the person holding the certificate an opportunity of being heard.

(5) A note of all orders made under sub-section (4) affecting any certificate of competency or certificate of proficiency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept under section 52.

(6) Whenever a person holding a certificate granted under this Act proves to the satisfaction of the issuing authority that he has, lost or been deprived of such certificate, the issuing authority shall, on payment of such fee as may be prescribed, shall grant a copy of the certificate and such copy shall have all the effect of the original.

Production of  
certificate of  
competency.

**55. (1)** The master of every vessel shall, on demand, produce to the proper officer the certificates of competency of the seafarers of the vessel along with a list of crew with the particulars of grades of certificates of master, mates, engineers and ratings.

(2) A surveyor may, at any reasonable time, go on board a vessel to which any of the provisions of this Part applies for the purpose of ensuring that the seafarers holding certificates issued in accordance with the STCW Convention are actually appointed and are present, and satisfy himself about the adequacy of such seafarers for the watch-keeping duties in ports and at sea.

Recognition  
of certificates  
of  
competency  
granted in  
other  
countries.

**56. (1)** Where in a country other than India, the certificate of competency is granted under any law for the time being in force in that country which is similar to those referred to in this Act, then if the Central Government is satisfied that,—

(a) the conditions under which any certificate of competency is granted in that country meets the standards of competency not lower than those required for the grant under this Act for corresponding certificates; and

(b) the certificate granted under this Act is accepted in that country in lieu of the corresponding certificate granted under the laws of that country,

the Central Government may, by notification, declare that any certificate of competency granted under the law in force in that country shall be recognised as equivalent to the corresponding certificate of competency granted under this Act.

(2) The certificate recognised under sub-section (1) as equivalent may be issued with a certificate of endorsement as may be prescribed.

(3) A person holding a certificate of endorsement under sub-section (2) shall be considered as duly certificated under this Act.

**57. (1)** Every master of a foreign vessel shall, before proceeding to sea from any port or place in India, ensure that the vessel has the requisite numbers of seafarer of appropriate grades as specified in the Safety Convention and STCW Convention.

Foreign vessel not to sail without certificated seafarers.

(2) A surveyor or any person authorised in this behalf by the Central Government may, at any reasonable time, go on board a vessel for the purpose of ensuring that the seafarers holding certificates issued in accordance with the Safety Convention and STCW Convention are actually appointed and are present, and satisfy himself about the adequacy of such seafarers for the watch keeping duties in ports and at sea.

(3) If any report made under sub-section (2) by a surveyor or any person authorised in this behalf by the Central Government, reveals any deficiency in a foreign vessel in relation to the requirements of the Safety Convention and STCW Convention and the Central Government is satisfied that it shall be unsafe for such vessel to proceed to sea, that vessel may be detained by the proper officer till such requirements are fulfilled.

**58.** At any time during which the security of India is threatened or during a proclamation of emergency issued under clause (1) of article 352 of the Constitution, every Indian citizen holding an Indian certificate of competency, certificate of proficiency or certificate of recognition granted under this Act shall be liable to serve on Indian vessel for such period on such terms and conditions as the Central Government may, by general or special order, specify.

Obligations of certain certificate holders to serve the Government or in Indian vessels.

**59. (1)** The Central Government may make rules to carry out the provisions of this Part.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manning scales of the seafarers under sub-section (1) of section 51;

(b) the certificate of grade appropriate under sub-section (2) of section 51;

(c) the different manning scales in relation to different categories of vessel, areas and types of operations under proviso to sub-section (2) of section 51;

(d) the conditions and restrictions under the second proviso to sub-section (2) of section 51;

(e) the number of persons to be manned and their qualifications under sub-section (3) of section 51;

(f) the requirement and procedure for grant of certificate of competency or certificate of proficiency to the different grades of seafarer under sub-section (1) of section 52;

(g) the requirement and procedure for grant of certificate of competency or certificate of proficiency under sub-section (3) of section 52;

(h) the form of certificate, fees and the valid period of such certificate and the manner in which the copies of certificate to be kept and recorded under sub-section (4) of section 52;

(i) the manner of conducting examination for certificate of competency or certificate of proficiency, the fee to be charged and the payment to be made to the examiners under sub-section (2) of section 54;

(j) the fee for grant of certificate if lost or deprived, under sub-section (6) of section 54;

(k) the endorsement under sub-section (2) of section 56;

(l) any other matter which is required to be or may be prescribed.

## PART V

### SEAFARERS

Application of this Part.

**60.** Save as otherwise provided, this Part shall apply to,—

- (a) every seafarer;
- (b) recruitment and placement service;
- (c) ship owners.

Definitions.

**61.** In this Part, unless the context otherwise requires,—

(a) "Maritime Labour Certificate" means a Certificate issued by the Central Government or any officer, authority or organisation authorised by it in this behalf, in accordance with the provisions of the Maritime Labour Convention;

(b) "recruitment and placement service" means any person, company, institution, agency or other organisation, in public or private sector which is engaged in recruiting seafarers on behalf of employers or placing seafarers with the employers.

Classification of seafarer, maritime labour standards and prescription of minimum scale.

**62.** (1) The Central Government may make rules for the classification of seafarers into different categories, the minimum manning scale of seafarers of such categories, and the different scales for different classes of ships.

(2) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to the seafarer employed or engaged as a member of the crew of a ship.

Application of maritime labour standards to seafarers and ships.

**63.** (1) The provisions relating to maritime labour standards as contained in the Maritime Labour Convention, shall apply to all seafarers and ships registered under this Act, but does not include,—

- (a) ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where any law for the time being in force relating to ports apply;
- (b) ships engaged in fishing activities;
- (c) traditionally built ships such as dhows and junks;
- (d) ships of war or naval auxiliaries.

(2) Subject to the provisions of sub-section (1), the Central Government may, on the recommendation of the Director-General, by order, extend the provisions of the said sub-section to any category of ship with such exceptions and modifications as it may consider necessary.

(3) Every Indian ship referred to in sub-section (1), wherever it is, and every ship other than an Indian ship while within the jurisdiction of India shall, subject to such conditions as may be prescribed, be in possession of a certificate issued in accordance with the provisions of the Maritime Labour Convention.

(4) No ship shall proceed to sea unless it is in possession of certificate issued under sub-section (3).

**64.** It shall be the duty of shipping masters,—

Duties of  
shipping  
master.

(a) to monitor the engagement and discharge of seafarer in the manner provided under this Act;

(b) to issue such continuous discharge certificate and seafarer's identity document as may be prescribed;

(c) to hear and decide disputes between a master, owner or agent of ship and any of the crew of the ship including those under section 77;

(d) to transmit the complaint of any dispute of a foreign seafarer of a ship, registered in a country other than India, in Indian territorial waters, with the master, owner or agent to the competent authority of the country of registration and to forward a copy of such complaint to the Director-General of International Labour Organisation;

(e) to perform such other duties relating to seafarers and merchant ships under this Act as the Central Government may, by general or special order, specify.

**65.** It shall be the business of the seafarer's employment office,—

Business of  
seafarer's  
employment  
office.

(a) to issue licence, to regulate and control the recruitment and placement service and to—

(i) ensure that no fees or other charges for recruitment and placement of seafarers are borne directly or indirectly or in whole or in part, by the seafarers;

(ii) ensure that adequate machinery and procedures exists for the investigation, if necessary, of complaints concerning the activities of recruitment and placement services;

(b) to perform such other functions and duties as may be prescribed.

**66.** (1) The seafarer shall be engaged only by,—

Supply or  
recruitment or  
engagement of  
seafarer.

(a) recruitment and placement service possessing the licence issued under the provisions of section 65; or

(b) owners in the case of Indian vessel for the vessel owned by them.

(2) No person, other than an owner of Indian vessel in respect of the vessel owned by him, shall carry on the business of recruitment and placement service unless he is in possession of a valid licence issued under section 65.

(3) No person shall engage any seafarer under this Act in any ship, unless the seafarer is in possession of a continuous discharge certificate and seafarer's identity documents issued under sub-section (4) except as otherwise exempted.

(4) The continuous discharge certificate and seafarer's identity document referred to in sub-section (3) shall be issued in such form and manner and on payment of such fees as may be prescribed.

(5) No person under the age of sixteen years shall be engaged or carried to sea to work in any capacity in any ship.

(6) The Central Government may, by order, direct that the seafarers generally or any category of seafarers in particular shall not be engaged or carried to sea to work in any capacity in any ship or in any class of ships so specified, unless each one of them possesses such qualifications as may be prescribed.

(7) Except as otherwise provided under the rules made under sub-section (6), no person shall engage or carry to sea any seafarer to work in any capacity in any ship or in any class of ships specified in this behalf by the Central Government, unless the seafarer is in possession of a certificate to the effect that he is medically fit to be employed in that capacity granted in such form by such authority as may be prescribed.

(8) Any person who claims to represent the interests of seafarers shall not demand or receive, either directly or indirectly, from any seafarer or person seeking employment as seafarer or any person on his behalf, any remuneration or donation or fees or compulsory subscription of any kind attributable from such seafarer or person's employment as seafarer, other than the fees authorised by this Act.

(9) There shall be no discrimination between seafarers,—

(a) on the ground of their membership in any particular union claiming to represent the interests of seafarers and membership in such union shall not be a pre-condition,

(b) on the basis of training institute from where they obtained training or place of issue of their continuous discharge certificates,

for their recruitment and engagement on board any ship.

(10) The Central Government or any officer authorised by it in this behalf, if satisfied that in the national interest or in the interest of seafarer it is necessary so to do, may, by order in writing, prohibit the master or owner or his agent of any ship other than an Indian ship specified in the order from engaging any person to serve as a seafarer on such ship.

(11) The Central Government may, by notification, fix the fees which shall be payable upon all engagements and discharges of the seafarer.

(12) The services of the seafarer engaged in contravention of sub-section (1) shall not be recognised for the purposes of certification under Part IV.

Agreements  
with seafarers.

**67.** (1) The master of an Indian ship, or owner of every Indian ship or his agent shall enter into an articles of agreement in such form and manner as may be prescribed with every seafarer whom he engages and shall submit a copy thereof to the shipping master.

(2) Notwithstanding anything contained in any other provisions of this Act, the master of an Indian ship registered at a port outside India, or owner of such ship or his agent who has an agreement with the seafarer made in due form according to the law of that port or of the port in which her seafarer were engaged, may engage in any port in India—

(a) a seafarer who is not a citizen of India and who holds a continuous discharge certificate or any other similar document of identity issued by the competent authority of the country in which the ship is registered or, as the case may be, of the country in which the said agreement was made, or

(b) a seafarer who is a citizen of India and who holds a continuous discharge certificate issued under this Act,

and any seafarer so engaged under clause (a) or clause (b) may sign the agreement aforesaid and it shall not be necessary for him to sign an agreement under this Act.

(3) A seafarer's right,—

(a) to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board whichever first happens;

(b) of wages shall not depend on the earning of the freight and seafarers are entitled to demand and recover the same notwithstanding that freight has not been earned.

(4) A seafarer shall not by any agreement forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which, in the absence of the agreement, he shall be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Act shall be void.

**68.** The Central Government may, having regard to the provisions of the Maritime Labour Convention, make rules in the matters relating to seafarer's employment officer for all or any of the following matters, namely:—

Power to make rules for enforcement of Maritime Labour Convention.

- (a) payment of wages;
- (b) hours of work and hours of rest;
- (c) entitlement to leave;
- (d) repatriation;
- (e) compensation, if ship loss or foundering;
- (f) manning levels;
- (g) service conditions including skill development and opportunities;
- (h) accommodation, recreational facilities, food and catering;
- (i) health protection, medical facilities, welfare and social security protection;
- (j) any other matter which is to be or may be required for compliance and enforcement of Maritime Labour Convention.

**69. (1)** Where the service of any seafarer engaged under this Act terminates before the date specified in the agreement by reason of the wreck, loss or abandonment of the ship or by reason of his being left on shore at any place outside India under a certificate granted under this Act of his unfitness or inability to proceed on the voyage, the seafarer shall be entitled to receive,—

Wages on termination of service for wreck, illness, etc.

(a) in the case of wreck, loss or abandonment of the ship,—

(i) wages at the rate to which he was entitled at the date of termination of his service for the period from the date his service is so terminated until he is returned to and arrives at a proper return port:

Provided that the period for which he shall be entitled to receive wages shall be not less than one month, and

(ii) compensation for the loss of his effect,—

(A) in the case of a seafarer employed on a ship engaged for coasting trade, of not more than one month's wages; and

(B) in the case of a seafarer employed on a foreign-going ship, of not more than three month's wages;

(b) in the case of unfitness or inability to proceed on the voyage,

wages for the period from the date his service is terminated until he is returned to and arrives at a proper return port.

(2) A seafarer shall not be entitled to receive wages under sub-clause (i) of clause (a) of sub-section (1) in respect of any period during which,—

(a) he was, or could have been, suitably employed; or

(b) through negligence he failed to apply to proper authority for relief as a distressed or destitute seafarer.

(3) Any amount payable by way of compensation under sub-clause (ii) of clause (a) of sub-section (1) shall be deposited with the shipping master at the port of engagement in India for payment to the seafarer, or, in the case of deceased seafarer, to the person nominated by him in this behalf under section 85 or if he has not made any such nomination or the nomination made by him is or has become void, to his legal heirs.

(4) A seafarer shall be entitled to continue receiving the wages at the same rate till such time he returns home, if such seafarer is held in the captivity including in case of piracy in the course of his employment.

*Explanation.*—For the purposes of item (B) of sub-clause (ii) of clause (a) of sub-section (1) of this section, "foreign-going ship" means a ship employed in trading between any port or place in India and any other port or place outside India, or between ports and places outside India.

Wages not to accrue during absence without leave, refusal to work or imprisonment.

**70.** (1) A seafarer shall not be entitled to wages,—

(a) for any period during which he is absent from duty without leave; or

(b) for any period during which he unlawfully refuses or neglects to work when required; or

(c) unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned.

(2) A seafarer shall not be disentitled to claim wages for any period during which he has not performed his duty if he proves that he was incapable of doing so by reason of illness, hurt or injury, unless it is proved that,—

(a) his illness, hurt or injury was caused by his own wilful act or default or his own misbehaviour; or

(b) his illness was contracted or his hurt or injury was sustained at a proper return port and was not attributable to his employment; or

(c) he has unreasonably refused to undergo medical or surgical treatment for his illness, hurt or injury involving no appreciable risk to his life.

Compensation to seafarers on premature discharge.

**71.** (1) If a seafarer having signed an agreement is discharged, otherwise than in accordance with the terms thereof, without fault on his part justifying the discharge and without his consent, he shall be entitled to receive from the master of the ship, owner of the ship or his agent, in addition to any wages he may have earned, as due compensation for the damage caused to him by the discharge, such sum as the shipping master may fix having regard to the circumstances relating to the discharge:

Provided that the compensation so payable shall not exceed—

(a) in the case of a seafarer who has been discharged before the commencement of a voyage, one months' wages; and

(b) in the case of a seafarer who has been discharged after the commencement of a voyage, three months' wages.

(2) Any compensation payable under this section may be recovered as wages.

Restrictions on sale of and charge upon wages.

**72.** (1) As respects wages due or accruing to a seafarer,—

(a) they shall not be subject to attachment by order of any court;

(b) an assignment thereof made prior to the accruing thereof shall not bind the person making the same;

(c) the power-of-attorney or authority for the receipt thereof shall not be irrevocable;

(d) the payment of wages to a seafarer shall be valid in law notwithstanding any previous assignment of those wages or any attachment thereof or encumbrance thereon.

(2) The provisions of clauses (b) and (c) of sub-section (1) shall not apply to so much of the wages of a seafarer as have been or are hereafter assigned by way of contribution to any fund or scheme approved in this behalf by the Central Government, the main purpose of

which is the provision for seafarer of health or social insurance benefits and the provisions of clauses (a) and (d) of sub-section (1) shall not apply to anything done or to be done for giving effect to such an assignment.

(3) Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes.

**73. (1)** A seafarer serving in an Indian ship shall, on termination of his engagement, be discharged in such manner as may be prescribed.

Discharge of seafarers.

(2) If an Indian ship is transferred or disposed of while she is at or on a voyage to any port outside India, every seafarer belonging to that ship shall be discharged at that port, unless he consents in writing to complete the voyage in the ship if continued.

(3) If a seafarer is discharged from an Indian ship in terms of sub-section (1), the provisions of section 75 shall apply as if the service of the seafarer had terminated without his consent and before the expiration of the period for which the seafarer was engaged.

(4) Every seafarer discharged in terms of sub-section (2) shall, if the voyage for which he was engaged is not continued, be entitled to the wages to which he would have been entitled if his service had been wrongfully terminated by the owner before the expiration of the period for which the seafarer was engaged.

(5) The master of an Indian ship shall not,—

(a) discharge a seafarer before the expiration of the period for which he was engaged, unless the seafarer consents to his discharge; or

(b) except in circumstances beyond his control, leave a seafarer behind,

without the authority of the officer specified in this behalf by the Central Government and the officer aforesaid shall certify on the agreement with seafarer that he has granted such authority, and also the reason for the seafarer being discharged or the seafarer being left behind.

(6) The officer aforesaid to whom application is made for authority in terms of sub-section (5), shall investigate the grounds on which the seafarer is to be discharged or the seafarer left behind and may in his discretion grant or refuse to grant such authority:

Provided that he shall not refuse to grant his authority if he is satisfied that the seafarer, without reasonable cause,—

(a) has failed or refused to join his ship or to proceed to sea therein; or

(b) has been absent from his ship without leave, either at the commencement or during the progress of a voyage for a period of more than forty-eight hours.

(7) The officer aforesaid shall keep a record of all seafarers discharged or left behind with his authority and whenever any charge is made against a seafarer under section 94, the fact that no such authority is so recorded shall be *prima facie* evidence that it was not granted.

**74.** If any seafarer is left behind or lost overboard or is deceased, the master shall enter in the official log book a statement of the amount due to the seafarer in respect of wages at the time when he was left behind or lost overboard or is deceased of all property left on board by him, and shall take such property into his charge and discharge the property in such manner as may be prescribed.

Wages and property of deceased seafarers and seafarers left behind.

**75. (1)** When the service of a seafarer terminates without the consent of the said seafarer at a port outside India, and before the expiration of the period for which the seafarer was engaged, the master, owner of a ship or his agent shall, in addition to any other related obligation imposed on either of them by this Act, make adequate provision for the maintenance of the seafarer according to his rank or rating, and for the return of that seafarer to a proper return port.

Repatriation of seafarer on termination of service at foreign port.

(2) If the master, owner of a ship or his agent fails without reasonable cause to comply with the provisions of sub-section (1), the expenses of maintenance and of the journey to the proper return port shall, if defrayed by the seafarer, be recoverable as wages due to him, and if defrayed by an Indian consular officer, be regarded as expenses falling within the provisions of sub-sections (3) and (4) of section 86.

*Explanation.*—For the purposes of sub-section (2), inability to provide the said expenses shall not, be regarded as reasonable cause.

Certain  
undisbursed  
amounts to be  
utilised for  
welfare of  
seafarers.

**76.** Subject to such restrictions and conditions as may be prescribed, any amount deposited with or recovered by the shipping master as wages or for making payment in accordance with the allotment note made by a seafarer or for being paid to a seafarer or his nominee may, if such amount remains unclaimed with the shipping master for a period of not less than six years, be utilised for the welfare of seafarer in such manner as the Central Government may direct.

Decision of  
questions by  
Shipping  
Masters.

**77.** (1) Where under the agreement with the seafarer any dispute arises at any port in India between the master, owner or agent of a ship and any of the seafarer of the ship, it shall be submitted to the shipping master.

(2) Any dispute of an Indian seafarer, on a vessel registered in a country other than India, in Indian territorial waters, with the master, owner of the ship or his agent may be submitted to the shipping master.

(3) The shipping master shall hear and decide the dispute submitted under sub-sections (1) and (2) and make an award which shall be conclusive as to the rights of parties and any document relating to such dispute or award itself shall be *prima facie* evidence thereof.

(4) Any person aggrieved by the award made by the shipping master under this section may, within a period of thirty days from the date of receipt of such award, prefer an appeal before the Principal Officer having jurisdiction over the matter and the Principal Officer may, after giving the parties to the appeal an opportunity of being heard, pass an order within a period of forty-five days from the date of receipt of such appeal.

(5) Any person aggrieved by the order passed by the Principal Officer under this section may, within a period of thirty days from the date of receipt of order, prefer second appeal to the Director-General who may, after giving the parties to the appeal an opportunity of being heard, pass an order within a period of forty-five days.

(6) An award made under this section may be enforced by a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be, in the same manner as an order of payment of wages made by such Magistrate under this Act.

(7) Nothing in the Arbitration and Conciliation Act, 1996 shall apply to any matter submitted to a shipping master for decision under this section. 26 of 1996.

Power of  
shipping  
master to  
require  
production of  
ship's papers.

**78.** In any proceedings under this Act before a shipping master relating to the wages, claims or discharge of a seafarer, the shipping master may require the owner, master his agent or seafarer to produce any logbooks, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

Summary  
proceedings  
for wages.

**79.** (1) A seafarer or a person duly authorised by him may, as soon as any wages due to him become payable but not paid, apply to any Judicial Magistrate of the first class or any Metropolitan Magistrate, as the case may be, exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged, or at which any person upon whom the claim is made is or resides, and such magistrate shall try the case in a summary way and the order made by such magistrate in the matter shall be final.

(2) An application under sub-section (1) may also be made by any officer authorised by the Central Government in this behalf by general or special order.

**80.** A proceeding for the recovery of wages due to a seafarer shall not be instituted by or on behalf of any seafarer in any civil court except where,—

Restrictions  
on suits for  
wages.

(a) the owner of the ship has been declared insolvent;

(b) the ship is under arrest or sold by the authority of any court;

(c) a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be, refers a claim to the court.

**81.** Where a seafarer is engaged for a voyage which is to terminate in India, he shall not be entitled to sue in any court outside India for wages unless he is discharged with such sanction as is required by this Act, and with the written consent of the master, or proves such ill-usage on the part, or by the authority, of the master, as to warrant a reasonable apprehension of danger to his life if he were to remain onboard.

Wages not  
recoverable  
outside India  
in certain  
cases.

**82. (1)** The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seafarer has under this Act or by any law or custom.

Remedies of  
master for  
wages,  
disbursements,  
etc.

(2) The master of a ship or every person lawfully acting as master of a ship by reason of the disease or incapacity from illness of the master of the ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages.

(3) If in any proceeding in any court touching the claim of a master in respect of such wages, disbursements or liabilities any set-off is claimed or any counterclaim is made, the court may enter into, and adjudicate upon, all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding and may direct payment of any balance found to be due.

**83. (1)** Where the Central Government is of the opinion that any dispute between seafarer or any class of seafarers or of any union of seafarers and the owners of ships in which such seafarers are employed or are likely to be employed exists or is apprehended and such dispute relates to any matter connected with or incidental to the employment of the seafarers, the Central Government may, by notification, constitute a Tribunal consisting of one or more persons, having knowledge of maritime matter, and refer the dispute for adjudication.

Power to  
refer disputes  
between  
seafarers and  
their  
employers to  
Tribunal.

5 of 1908. (2) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.

10 of 1872. (3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872.

5 of 1908. (4) The Tribunal shall, for the purposes of discharging its functions under this Act, have power to regulate its own procedure and shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses;

(e) any other matter which may be prescribed.

(5) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

45 of 1860.

(6) No party to a dispute shall be entitled to be represented by a legal practitioner in any proceeding before the Tribunal except with the consent of the other party or parties to the proceeding and with the leave of the Tribunal.

(7) The Tribunal shall dispose of the reference within a period as may be specified in the notification under sub-section (1) and submit its award to the Central Government.

(8) On receipt of the award, the Central Government shall cause it to be published and the award shall become enforceable on the expiry of thirty days from the date of such publication:

Provided that where the Central Government is of the opinion that it shall be inexpedient on public grounds to give effect to the award or any part of it, it may before the expiry of the said period of thirty days by order in the Official Gazette either reject the award or modify it, and where the Central Government does so, the award shall not become enforceable or shall become enforceable subject to the modifications, as the case may be.

(9) An award which has become enforceable under this section shall be binding on—

(a) all parties to the dispute;

(b) where any party to the dispute is the owner of the ship, his heirs, successors, or assigns.

(10) Save as otherwise provided in the award, an award shall remain in operation for a period of one year from the date on which it becomes enforceable and shall thereafter continue to remain in operation until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(11) Unless otherwise directed by the Central Government, the Tribunal shall cease to exist on the expiry of a period of thirty days after publication of the award.

(12) Any money due to a seafarer from the owner of a ship under an award may be recovered as wages.

(13) Nothing contained in the Industrial Disputes Act, 1947, shall apply to any dispute between seafarers or any class of seafarers or any union of seafarers and the owners of ships in which such seafarers are employed or are likely to be employed.

14 of 1947.

(14) During the pendency of proceedings under this section,—

(a) no seafarer or class of seafarers or union of seafarers shall go or remain on strike or otherwise act in a manner prejudicial to the normal operation of the ships in which the seafarer is employed or are likely to be employed; and

(b) no owner of a ship shall,—

(i) alter to the prejudice of the seafarer concerned in the dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or

(ii) discharge or punish any seafarer in respect of any matter connected with the dispute.

Recovery of wages, etc., of seafarers lost with their ship.

**84.** (1) Where a seafarer is lost with the ship to which he belongs, the Central Government or such officer as the Central Government may appoint in this behalf may recover the wages and the compensation due to him from the master or owner of a ship or his agent in the same court and in the same manner in which the seafarer's wages are recoverable, and shall deal with those wages in the same manner as with the wages and compensation due to other deceased seafarers under this Act.

(2) In any proceeding for the recovery of the wages and compensation, if it is shown by some official records or by other evidence that the ship has, twelve months or upwards before the institution of the proceeding, left any port, she shall, unless it is shown that she has been heard of within twelve months after the departure, be deemed to have been lost with all hands on board either immediately after the time she was last heard of or at such later time as the court hearing the case may think probable.

**85.** (1) A seafarer may, for the purposes of sub-section (3) of section 69, nominate any person or persons: Nomination.

Provided that if the seafarer has a family, he may nominate for the purposes aforesaid anyone or more members of his family only and if a seafarer acquires a family after he has made any such nomination, the nomination shall become void.

(2) The form in which any nomination may be made under sub-section (1), the cancellation or variation of any such nomination (including the making of a fresh nomination) and all other matters connected with such nominations shall be such as may be prescribed.

**86.** (1) The Indian consular officer at or near the place where a seafarer is in distress shall, on application being made to him by the distressed seafarer, provide in accordance with the rules made under this Act for the return of that seafarer to a proper return port, and also for the said seafarer's necessary clothing and maintenance until his arrival at such port. Relief and maintenance of distressed seafarers.

(2) A distressed seafarer shall not have any right to be maintained or sent to a proper return port except to the extent and on the conditions provided for in the rules.

(3) All repatriation expenses, other than excepted expenses, incurred by or on behalf of the Central Government in accordance with the provisions of this Act shall constitute a debt due to the Central Government for which the owner or agent of the ship to which the seafarer in respect of whom they were incurred belonged at the time of his discharge or other event which resulted in his becoming a distressed seafarer shall be liable, and the owner or agent shall not be entitled to recover from the seafarer any amount paid by him to the Central Government in settlement or part settlement of such debt.

(4) All excepted expenses incurred by or on behalf of the Central Government in accordance with the provisions of this Act shall constitute a debt due to the Central Government for which the seafarer in respect of whom they were incurred and the owner or the agent of the ship to which that seafarer belonged at the time of his discharge or other event which resulted in his becoming a distressed seafarer shall be jointly and severally liable, and the owner or agent shall be entitled to recover from the seafarer any amount paid by him to the Central Government in settlement or part settlement of such debt, and may apply to the satisfaction of his claim so much as may be necessary of any wages due to the seafarer.

(5) All excepted expenses incurred in accordance with the provisions of this Act in respect of any distressed seafarer by the owner or agent of the ship to which he belonged at the time of his discharge or other event which resulted in his becoming a distressed seafarer shall constitute a debt due to the owner or agent for which the seafarer shall be liable; and the owner or agent may apply to the satisfaction of his claim so much as may be necessary of any wages due to the seafarer; but he shall not be entitled to recover from the seafarer any repatriation expenses other than excepted expenses.

(6) In any proceedings for the recovery of any expenses which in terms of sub-section (3) or sub-section (4) are a debt due to the Central Government, the production of an account of the expenses and proof of payment thereof by or on behalf of or under the direction of the Central Government shall be *prima facie* evidence that the expenses were incurred in accordance with the provisions of this Act by or on behalf of the Central Government.

(7) Any debt, which may be due to the Central Government under this section, may be recovered by any officer authorised by it in writing in this behalf from the person concerned in the same manner, as the wages are recoverable under section 79.

(8) The Central Government may, make rules with respect to relief, maintenance and return to the proper port of a seafarer found in distress in any place out of India and with respect to the circumstances in which and the conditions subject to which the seafarer may be relieved and provided with passages under this Part and generally to carry out the provisions of this Part relating to distressed seafarer.

*Explanation.*—For the purposes of this section,—

(a) "excepted expenses" means repatriation expenses incurred in cases where the cause of the seafarer being left behind is desertion or absence without leave or imprisonment for misconduct or discharge from his vessel on the grounds of misconduct;

(b) "repatriation expenses" means expenses incurred in returning a distressed seafarer to a proper return port and in providing him with necessary clothing and maintenance until his arrival at such a port, and includes in the case of a shipwrecked seafarer the repayment of expenses incurred in conveying him to a port after shipwreck and maintaining him while being so conveyed.

Evidence of distress.

**87.** In any proceeding under this Part, a certificate of the Central Government or of such officer as the Central Government may specify in this behalf, to the effect that any seafarer named therein is distressed shall be conclusive evidence that such seafarer is distressed within the meaning of this Act.

Inspection by shipping master, etc.

**88. (1)** A shipping master, surveyor, seafarer's welfare officer, Indian consular officer or any other officer at any port duly authorised in this behalf by the Central Government shall,—

(a) in the case of any ship upon which the seafarer has been shipped at that port, at any time, and

(b) in the case of any Indian ship, at any time, and if the master or three or more of the crew so request,

enter onboard the ship and inspect,—

(i) the provisions and water;

(ii) the weights and measures;

(iii) the accommodation for seafarers, with which the ship is required to be provided by or under this Act and also the space and equipment used for the storage and handling of food and water and the galley and other equipment used for the preparation and service of meals;

(iv) Maritime Labour Certificate and Declaration of Maritime Labour Compliance.

(2) All Indian ships engaged in international voyage or operating from a port, or between ports, in another country, shall possess a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance.

(3) Ships not covered under sub-section (2) shall, unless exempted by the Central Government, possess such certificate in such manner and form as may be prescribed.

(4) For the purpose of preventing seafarer from being taken onboard any ship at any port in India contrary to the provisions of this Act, any shipping master or deputy or assistant shipping master or any director, deputy director or assistant director of the seafarer's employment office, may enter at any time onboard any such ship upon which he has reasons to believe that seafarers have been shipped, and may muster and examine the several seafarers employed therein.

*Explanation.*—For the purposes of this section,—

(a) "Declaration of Maritime Labour Compliance" means a declaration issued by the Central Government or by any officer, authority or organisation

authorised by it in this behalf, in respect of a ship that it meets with the requirements and standards set out in the provisions of the Maritime Labour Convention;

(b) "International voyage" means a voyage from or to a port or place in India to or from a port or place outside India or between any ports outside India.

**89. (1)** A seafarer shall, for the purposes of this Part, be deemed to be a serving seafarer during any period commencing on the date of the agreement with the crew and ending thirty days after the date on which the seafarer is finally discharged from such agreement.

Special provisions for the protection of seafarers in respect of litigation.

(2) If any person presenting any complaints, applications or appeal to any court has reason to believe that any adverse party is serving seafarer, he shall make a statement accordingly in such complaint, application or appeal.

(3) If any collector has reason to believe that any seafarers who ordinarily resides or has property in his district and who is a party to any proceeding pending before any court is unable to appear therein or is a serving seafarer, the collector may certify the facts to the court.

(4) If a collector has certified under sub-section (3) or if a court has reason to believe that a seafarer who is a party to any proceeding before the court, is unable to appear therein or is a serving seafarer, the court shall suspend the proceeding and shall give notice thereof to the shipping master:

Provided that the court may refrain from suspending the proceeding and giving the notice if,—

(a) the proceeding is one instituted or made by the seafarer, alone or conjointly with others, with the object of enforcing a right of pre-emption; or

(b) the interests of the seafarer in the proceeding are, in the opinion of the court, either identical with those of any other party thereto and adequately represented by such other party, or merely of a formal nature.

(5) If it appears to the court before which any proceeding is pending that a seafarer though not a party to the proceeding is materially concerned in the outcome of the proceeding and that his interests are likely to be prejudiced by his inability to attend, the court may suspend the proceeding and shall give notice thereof to the shipping master.

(6) If on receipt of a notice under sub-section (4) or sub-section (5), the shipping master certifies to the court, that the seafarer is a serving seafarer, the court shall thereupon postpone the proceeding in respect of the seafarer for such period as it thinks fit:

Provided that if by reason of the continued absence of the seafarer the question of any further postponement of the proceeding in respect of the seafarer arises, the court shall in deciding the question have regard to the purposes of the provisions of this Act conferring special protection on seafarer in respect of litigation.

(7) If the shipping master either certifies that the seafarer is not for the time being a serving seafarer or fails within two months from the date of the receipt of the notice under sub-section (4) or sub-section (5), as the case may be, to certify that the seafarer is a serving seafarer, the court may, if it thinks fit, continue with the proceeding.

(8) Where in any proceeding before a court, a decree or order has been passed against any seafarer while he was a serving seafarer, the seafarer, or if he dies while he is a serving seafarer, his legal representative, may apply to the said court to have the decree or order to be set aside, and if the court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice requires that the decree or order to be set aside as against the seafarer, the court shall subject to such conditions, if any, as it thinks fit to impose, make an order accordingly, and may, if it appears that any opposite party in the proceeding has failed to comply with the provisions of sub-section (2), award, subject to such conditions as it thinks fit to impose, damages against such opposite party.

(9) The period of limitation for an application under sub-section (8) shall be sixty days from the date on which the seafarer first ceases to be a serving seafarer after the passing of the decree or order, or where the summons or notice was not duly served on the seafarer in the proceeding in which the decree or order was passed, from the date on which the applicant had knowledge of the decree or order, whichever is later; and the provisions of section 5 of the Indian Limitation Act, 1963, shall apply to such applications.

36 of 1963.

(10) Where the decree or order in respect of which an application under sub-section (8) is made is of such a nature that it cannot be set aside as against the seafarer only, it may be set aside as against all or any of the parties against whom it was made.

(11) Where a court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be, in respect of which the decree or order was passed.

(12) In computing the period of limitation provided in the foregoing provisions or in the Indian Limitation Act, 1963, or in any other law for the time being in force, for any suit, appeal or application to a court to which a seafarer is a party, the period or periods during which the seafarer has been a serving seafarer, and if the seafarer has died while he was a serving seafarer, the period from the date of his death to the date on which his next-of-kin was first informed, by the shipping master or otherwise, of his death, shall be excluded:

36 of 1963.

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of presumption except in such areas and in such circumstances as the Central Government may, by notification, specify in this behalf.

(13) If any court is in doubt whether, for the purposes of this section, a seafarer is or was at any particular time or during any particular period a serving seafarer, it may refer the question to the shipping master, and the certificate of the shipping master shall be conclusive evidence on the question.

Facilities for making complaint.

**90.** If a seafarer states to the master that he desires to make a complaint to a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be, or other proper officer against the master or any of the crew, the person authorised by the Central Government in this behalf shall,—

(a) if the ship is then at a place where there is a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be, or other proper officer, as soon after such statement as the service of the ship shall permit, and

(b) if the ship is not then at such place, as soon after her first arrival at such place as the service of the ship shall permit,

allow the complainant to go ashore or send him ashore under proper protection so that he may be enabled to make the complaint.

Assignment or sale of salvage invalid.

**91.** Subject to the provisions of this Act, an assignment of salvage payable to a seafarer made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable.

Ship not to be boarded without permission.

**92.** Where a ship has arrived at a port or place in India at the end of a voyage and any person, not being in the service of the Government or not being duly authorised by law for the purpose, goes onboard the ship without the permission of the master, the master of the ship may take such person into custody and deliver him up forthwith to a police officer to be taken before a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be, to be dealt with according to the provisions of this Act.

Misconduct endangering life or ship.

**93.** No seafarer belonging to an Indian ship wherever it may be, or to any other ship, while in India, shall knowingly,—

(a) do anything tending to the immediate loss or destruction of, or serious damage to, the ship, or tending immediately to endanger the life of, or to cause injury to any person belonging to or onboard the ship; or

(b) refuse or omit to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or onboard the ship from danger to life or from injury.

**94.** (1) No seafarer lawfully engaged shall,—

(a) desert his ship; or

(b) neglect or refuse, without reasonable cause, to join the ship or to proceed to sea in his ship or be absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or be absent at any time without leave and without sufficient reason from his ship or from his duty.

(2) For the purposes of sub-section (1), the fact that the ship on which the seafarer is engaged or to which he belongs is unseaworthy shall be deemed to be a reasonable cause:

Provided that the seafarer has, before failing or refusing to join his ship or to proceed to sea in his ship or before absenting himself or being absent from the ship, as the case may be, complained to the master or a shipping master, surveyor, seafarer's welfare officer, port health officer, Indian consular officer or any other officer at any port duly authorised in this behalf by the Central Government, that the ship is unseaworthy.

(3) If it is shown to the satisfaction of a shipping master that a seafarer has deserted his ship or has absented himself without leave and without sufficient reason from his ship or from his duty, the shipping master shall forthwith make a report to that effect to the Director-General who may thereupon direct that the seafarer's continuous discharge certificate and seafarer identity document shall be withheld for such period as may be specified in the direction.

(4) If a seafarer deserts his ship or is absent without leave and without sufficient reason from his ship or from his duty, the master, any seafarer, the owner or agent of the owner of the ship may, without prejudice to any other action that may be taken against the seafarer under this Act, convey him onboard his ship and may for that purpose cause to be used such force as may be reasonable in the circumstances of the case.

(5) If, either at the commencement or during the progress of any voyage, a seafarer engaged in an Indian ship commits outside India, the offence of desertion or absence without leave or any offence against discipline, the master, any mate, the owner or agent of the owner of the ship may, if and so far as the laws in force in the place shall permit, arrest him without first procuring warrant.

(6) No person shall convey onboard or arrest a seafarer on improper or insufficient grounds.

(7) Where a seafarer is brought before a court on the ground of desertion or of absence without leave or of any offence against discipline, and the master or the owner, or his agent, so requires, the court, may, in lieu of committing and sentencing him for the offence, cause him to be conveyed onboard his ship for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagements may afterwards be earned.

**95.** A seafarer lawfully engaged shall be guilty of an offence against discipline if he commits any of the following acts, namely:—

(a) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security;

(b) if he wilfully disobeys any lawful command or neglects the duty;

(c) if he continues to wilfully disobey any lawful commands or continues with wilful neglect of duty;

Desertion  
and absence  
without  
leave.

General  
offences  
against  
discipline.

(d) if he assaults the master or any other officer of, or a seafarer belonging to the ship;

(e) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or retard the progress of the voyage;

(f) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of, or wilfully damages any of, her stores or cargo;

(g) if he has received an advance payment on the basis of his agreement and wilfully or through misconduct fails to attend his ship or desert therefrom before the payment becomes due to him.

Smuggling of goods by seafarer.

**96.** (1) If a seafarer engaged is convicted of an offence of smuggling any goods, whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to reimburse the loss or damage and the whole or a part of his wages may be retained in satisfaction on account of that liability without prejudice to any other remedy.

(2) If a seafarer engaged is convicted of an offence of smuggling any goods, the Director-General may direct that the seafarer's continuous discharge certificate and seafarer's identity document shall be cancelled or shall be suspended for such period as may be specified in the direction.

Entry of offences in official log-book.

**97.** (1) If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine—

(a) an entry of the offence or act shall be made in the official logbook and signed by the master, the officer on watch;

(b) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, be furnished with a copy of the entry and have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit;

(c) a statement of a copy of the entry having been so furnished and the entry having been so read over and the reply, if any, made by the offender shall likewise be entered and signed in the manner aforesaid; and

(d) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of such production or proof, the court hearing the case may in its discretion, refuse to receive evidence of the offence or act of misconduct.

Report of desertions and absences without leave.

**98.** Whenever any seafarer engaged outside India on an Indian ship deserts or otherwise absents himself in India without leave, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to the shipping master or to such other officer as the Central Government specifies in this behalf, unless in the meantime, the deserter or absentee returns.

Entries and certificates of desertion abroad.

**99.** (1) In every case of desertion from an Indian ship whilst such ship is at any place out of India, the master shall produce the entry of desertion in the official logbook to the Indian consular officer at the place, and that officer shall thereupon make and certify a copy of the entry.

(2) The master shall forthwith transmit such copy of entry certified under sub-section (1) to the shipping master at the port at which the seafarer was shipped, and the shipping master shall, if required, cause the same to be produced in any legal proceeding.

(3) Such copy of the entry, if purporting to be so made and certified as provided under sub-section (1), shall, in any legal proceeding relating to such desertion, be admissible in evidence.

**100.** (1) Whenever a question arises whether the wages of any seafarer are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seafarer was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official logbook.

Facilities for proving desertion in proceedings for forfeiture of wages.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved, unless the seafarer can produce a proper certificate of discharge or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving his ship.

**101.** (1) Where any wages or other property are under this Act forfeited for desertion from a ship, they shall be applied towards reimbursing the expenses caused by the desertion to the master or the owner of the ship or his agent of the ship, and subject to that reimbursement, shall be paid to the Central Government.

Application of forfeitures.

(2) For the purposes of such reimbursement, the master, or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited, and the court in any legal proceeding relating to such wages may order them to be paid accordingly.

**102.** Any question concerning the forfeiture of or deductions from the wages of a seafarer may be determined in any proceeding lawfully instituted with respect to those wages, notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture has not been made the subject of any criminal proceeding.

Decision of questions of forfeiture and deduction in suits for wages.

**103.** (1) Every fine imposed on a seafarer for any act of misconduct under his agreement shall be deducted and paid as follows, namely:—

Payment of fines imposed under agreement to shipping master.

(a) if the offender is discharged at any port or place in India and the offence and such entries in respect thereof as aforesaid are proved to the satisfaction of the shipping master, the master or owner or agent shall deduct such fine from the wages of the offender and pay the same to such shipping master; and

(b) if the seafarer is discharged at any port or place outside India and the offence and such entries as aforesaid are proved to the satisfaction of the Indian consular officer, by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official logbook, if any, and signed by such officer and on the return of the ship to India, the master or owner shall pay such fine to the shipping master.

(2) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punishable under the provisions of this Act.

(3) The proceeds of all fines received by a shipping master under this section shall be utilised for the welfare of seafarers in such manner as the Central Government may direct.

**104.** (1) No person shall by any means whatever persuade or attempt to persuade a seafarer to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty.

Seafarer not to be enticed to desert.

(2) No person shall harbour or secrete a seafarer who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seafarer to have so done:

Provided that the provisions of this sub-section shall not extend to the case in which the harbour or secreting is by the spouse of the seafarer.

**105.** (1) No person shall secrete himself and go to sea in a ship without the consent of either the owner, agent or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent.

Stowaways and seafarers carried under compulsion.

(2) Every seafaring person whom the master of a ship is under the authority of this Act or any other law compelled to take onboard and convey and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws for preserving discipline and to the same fines, and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and has signed the agreement with the crew.

(3) The master of any Indian ship arriving at any port or place in or outside India and the master of any ship other than an Indian ship arriving at any port or place in India shall, if any person has gone to sea on that ship without the consent referred to in sub-section (1), report the fact in writing to the proper officer as soon as may be after arrival of the ship.

On change of master, documents to be handed over to successor.

**106. (1)** If during the progress of a voyage the master of any Indian ship is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall, deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody and a handing over note enlisting such documents.

(2) On receipt of such documents and the handing over note, the successor shall make an entry in the official logbook to that effect which shall also be endorsed by the predecessor.

Deserters from foreign ships.

**107. (1)** Where it appears to the Central Government that due facilities are or shall be given by the Government of any country outside India for recovering and apprehending seafarers who desert from Indian ships in that country, the Central Government may, by notification, stating that such facilities are or shall be given, declare that this section shall apply to seafarers belonging to ships of such country, subject to such limitations or conditions as may be specified in the notification.

(2) Where this section applies to seafarers belonging to ships of any country and a seafarer deserts from any such ship, when within India, any court that would have taken cognizance of the matter if the seafarer had deserted from an Indian ship shall, on the application of a consular officer of that country, aid in apprehending the deserter and for that purpose may, on information given on oath, issue a warrant for his apprehension and on proof of the desertion order him to be conveyed onboard his ship or delivered to the master or mate of his ship or to the owner of the ship or his agent to be so conveyed and any such warrant or order may be executed accordingly.

Official logbook.

**108. (1)** Except a ship of less than two hundred tons gross, there shall be kept an official logbook in such form and such manner as may be prescribed.

(2) The master, owner or agent of every ship for which an official logbook is required to be kept under this Act shall, deliver the official logbook to the shipping master as and when required by the shipping master.

(3) No person shall make or procure to be made or assist in making any entry in any official logbook in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival.

Power to make rules for this Part.

**109. (1)** The Central Government may make rules to carry out the provisions of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the conditions under sub-section (3) of section 63;

(b) the continuous discharge certificate and seafarer's identity documents under clause (b) of section 64;

(c) the other functions and duties of the seafarer's employment offices under clause (b) of section 65;

(d) the form, the manner of the issue of continuous discharge certificate and

seafarer's identity documents and fees for such discharge certificate and identity documents under sub-section (4) of section 66;

(e) the qualifications of the seafarer engaged or carried to sea to in any capacity in any ship under sub-section (6) of section 66;

(f) the form of certificate to be possessed by seafarer and the authority who grants that certificate to the effect that the seafarer is medically fit under sub-section (7) of section 66;

(g) the form of agreement and manner of making agreement under sub-section (1) of section 67;

(h) the manner of discharge from service of seafarer under sub-section (1) of section 73;

(i) the manner of discharge of property under section 74;

(j) the restrictions and conditions for utilisation of any amount deposited with or recovered by shipping master under section 76;

(k) any other matter relating to functions of the Tribunal under clause (e) of sub-section (4) of section 83;

(l) the form of nomination, cancellation or variation of such nomination and all other matters connected with the nominations under sub-section (2) of section 85;

(m) the form of certificate and the manner of possession of such certificate under sub-section (3) of section 88;

(n) the form and manner of keeping logbook under sub-section (1) of section 108;

(o) any other matter which is required to be or may be prescribed.

## PART VI

### SAFETY AND SECURITY

**110.** This Part shall, unless otherwise exempted, apply to,—

Application  
of this Part.

(a) Indian vessel, except vessel covered under Part XIII, on matters relating to safety and security;

(b) vessel other than Indian vessel when such vessel is within India, including waters within the jurisdiction of India on matters relating to safety and security;

(c) port facility, on matters relating to security; and

(d) company, on matters relating to safety and security of the vessel.

**111.** In this Part, unless the context otherwise requires,—

Definitions.

(a) "company" means the owner of the vessel or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the vessel from the owner of the vessel and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the international safety management code under the safety convention;

(b) "port facility" means any location or area including anchorages or awaiting berths or approaches from seaward as determined by the Central Government where interface between vessel or a vessel and a port takes place;

(c) "voyage" means the whole time and distance between the vessels port or place of departure and her final port or place arrival;

(d) words and expressions used in this Part but not defined, shall have the same meanings as assigned to them in the Conventions as referred to in section 112.

Safety and security requirements.

**112.** (1) Every vessel shall, subject to such conditions as may be prescribed, comply with the provisions of the following convention or agreement, as applicable, namely:—

- (a) the Safety Convention;
- (b) the Load Lines Convention;
- (c) the Special Trade Passenger Ships Agreement, 1971;
- (d) the Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- (e) the International Convention on Maritime Search and Rescue, 1979;
- (f) the Tonnage Measurement Convention, 1969;
- (g) the International Convention for Safe Containers, 1972;
- (h) any other convention or agreement or any treaty relating to safety or security to which India is a Party:

Provided that vessels, to which the provisions of the above conventions are not applicable, shall comply with such safety and security requirements as may be prescribed.

(2) The safety and security requirements for different classes of vessels and certificates to be held by such vessels shall be such as may be prescribed.

Reporting of incidents.

**113.** (1) When an incident relating to the safety and security takes place on a vessel, the master of vessel shall report the particulars of such incident to such authority in such manner as may be prescribed.

(2) When an incident takes place relating to the loss or likely loss overboard of dangerous goods in packaged form into the sea, or dangerous goods in solid form in bulk into the sea, or any incident impeding safe navigation, the master of every vessel shall report the particulars of such incident to such authority in such manner as may be prescribed.

(3) The vessel referred to in sub-section (1) or sub-section (2) being abandoned, or a report from such vessel being incomplete, the Central Government shall fix the responsibility on the master of the vessel.

Obligation to render assistance on receiving signal of distress and to persons in danger.

**114.** (1) The master of an Indian vessel, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable or in the special circumstances of the case considers it unreasonable or unnecessary to do so or unless he is released from such obligation under the provisions of sub-section (3) or sub-section (4).

(2) Where the master of any vessel in distress has requisitioned any Indian vessel that has answered his call, it shall be the duty of the master of the requisitioned vessel to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress unless he is released from the obligation under the provisions of sub-section (4).

(3) The master shall be released from the obligation imposed by sub-section (1) as soon as he is informed of the requisition of one or more vessels, other than his own and that the requisition is being complied with by the vessel or vessels requisitioned.

(4) The master shall be released from the obligation imposed by sub-section (1), and if his vessel has been requisitioned, from the obligation imposed by sub-section (2), if he is informed by the persons in distress or by the master of any vessel that has reached the persons in distress that assistance is no longer required.

(5) If the master of an Indian vessel on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress is unable or in the special circumstances of the case considers it unreasonable or unnecessary to go to the assistance of the persons

in distress, he shall forthwith cause a statement to be entered in the official log book or if there is no official log book, cause other record to be kept of his reasons for not going to the assistance of those persons.

(6) The master of every Indian vessel for which an official logbook is required shall enter or cause to be entered in the official logbook every signal of distress or message that a vessel, aircraft or person is in distress at sea.

(7) The master of every Indian vessel shall render assistance to every persons found at sea in danger of being lost, unless he is unable or, in the special circumstance of the case, considers that such assistance cannot be rendered without serious danger to his vessel, or the persons thereon.

(8) If the master of an Indian vessel is unable or consider it unreasonable to go to the assistance of a person found at sea in danger of being lost, the master shall forthwith cause a statement to be entered in the official logbook or, if there is no official logbook, cause other record to be kept of his reasons for not going to the assistance of that person.

**115.** The Central Government may make arrangements for search and rescue services for dealing with distress situation at sea, including territorial waters of India or any marine areas adjacent thereto over which India has, or may have jurisdiction under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force or such territory under International Convention on Maritime Search and Rescue, 1979 and agreement related thereto and such services shall include the establishment of rescue co-ordination centers and sub-centers.

Search and  
rescue  
services.

**116.** Every Indian vessel shall be equipped and maintained with such communication equipment, distress and safety equipment and shall be provided with such certified operators as may be prescribed.

Radio  
communication  
requirements.

**117.** Every Indian vessel shall carry on board such information relating to the stability of the vessel, and the effects of any damage, control and general precautions necessary to maintain watertight integrity of the vessels, duly approved, as required under the provisions of Safety Convention, and the Load Line Convention, or the safety and security requirements in accordance with the provisions of section 112.

Information  
about vessel  
stability.

*Explanation.*—For the proposes of this section, "Load Line Convention" means the International Convention on Load Lines, 1966 and its Protocols.

**118. (1)** No vessel, other than a vessel exempted from the provisions of this Part relating to load lines, shall be so loaded as to submerge in salt water, when the vessel has no list, the appropriate load line on each side of the vessel, that is to say, the load line indicating or purporting to indicate the maximum depth to which the vessel is for the time being entitled under the load line rules to be loaded.

Submersion of  
load lines.

(2) Without prejudice to any other proceedings under this Act, any vessel which is loaded in contravention of this section may be detained until she ceases to be so loaded.

**119. (1)** No vessel shall carry passengers between ports or places in India, or to or from any port or place in India from or to any port or place outside India, unless she has all certificates required under this Part in force.

No vessel to  
carry passenger  
without a  
certificate.

(2) The Central Government may, by general or special order, specify the conditions relating to,—

- (a) passenger accommodation;
- (b) scale of passenger and crew amenities to be provided;
- (c) space or disallowance of any space on a vessel;
- (d) scale of provisions and water to be provided;

- (e) hospital accommodation and medical facilities;
- (f) the conditions for carriage of cargo and livestock; and
- (g) any other matter to carry out the purposes of this Part.

(3) Subject to the conditions specified in sub-section (2), the master of a passenger vessel departing or proceeding on a voyage shall make a statement about the passengers on board the vessel in such form as may be specified by the Central Government in this behalf.

Vessel not to proceed to sea without valid safety and security certificates.

**120.** No vessel shall proceed to sea unless there is in force in respect of such vessel the certificates required under the convention or agreement referred to in section 112.

Offences.

**121.** (1) If any person who,—

- (a) being drunk or disorderly attempts to enter a vessel; or
- (b) on board molest or continues to molest any person on board; or
- (c) travels or attempts to travel without payment of fare; or
- (d) wilfully refuses or neglects to quit the vessel on arrival at destination; or
- (e) fails to exhibit his ticket when requested by the master or other officer; or
- (f) misconducts himself in such a manner as to cause annoyance or injury to persons on board; or
- (g) carries any substance that could jeopardize the safety or security of the vessel, lives onboard or the environment in general,

he shall be guilty of an offence under this sub-section.

(2) The master may refuse to receive on board any person referred to in sub-section (1), and if any such person is on board, may put him on shore, and the person so refused admittance or put on shore shall not be entitled to return of any fare he has paid.

(3) The master or other officer of any such vessel and all persons called by him or other officer to his assistance, without warrant, may detain any person who commits any offence under sub-section (1) and convey the offender with all convenient dispatch before the nearest police station to be dealt with in accordance with the law.

Vessel not to carry cargo or passengers in contravention of Act.

**122.** (1) No vessel shall carry or attempt to carry cargo in contravention of section 120 or shall have on board or in any part thereof a cargo which is not in accordance with the certificate held by the vessel.

(2) No vessel shall carry or attempt to carry passengers in contravention of section 120 or shall have on board or in any part thereof a number of passengers, which is greater than the number set forth in the certificate held by the vessel.

(3) If the master of any vessel which carries or attempts to carry cargo or passengers in contravention of this section he shall be liable to have his certificate of competency cancelled or suspended for such a period as the Central Government may, by order, specify in this behalf.

Unseaworthy vessel not to be sent to sea.

**123.** (1) Every person who sends or attempts to send a vessel which is not in a seaworthy condition to sea so that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to ensure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be guilty of an offence under this sub-section.

(2) Every master of a vessel who knowingly takes a vessel which is not in seaworthy condition that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, be guilty of an offence under this sub-section.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(4) No prosecution for an offence under sub-section (2) shall be instituted except by, or with the written consent of the Central Government.

**124. (1)** In every contract of service, express or implied between the owner of a vessel and the master or any seafarer thereof, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such vessel or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to ensure the seaworthiness of such vessel for the voyage at the time when such voyage commences, and to keep her in a seaworthy state during the voyage.

Obligation of owner to seafarer with respect to sea-worthiness

(2) For the purpose of verifying that the provisions of this section have been complied with, the Central Government may, either at the request of the owner or otherwise, arrange for a survey of the hull, equipment or machinery of any sea-going vessel by a surveyor or any person so authorised.

**125. (1)** Every vessel, company or port facility, as the case may be, shall comply with such requirements as may be prescribed for safety management and security management.

Safety and security management.

(2) The Central Government or a person authorised by it shall arrange for the audit of the vessel, company or port facility for the purpose of sub-section (1).

(3) The Central Government or a person authorised by it, may set different levels of security and provide such information thereof to all the port facilities, and all vessels entering into any port facility.

**126. (1)** No vessel shall enter into or sail out of or operate within the port, terminal, anchorages, port facilities, Indian offshore facilities or Indian territorial waters without complying with such provisions with regard to insurance, classification and condition of vessel or any other relevant requirements for the purposes of this Part as may be prescribed.

Control measures and detention of vessels.

(2) The surveyor may inspect any Indian vessel or any vessel other than an Indian vessel, whilst at a port or place in India for the purpose of this Part and if it is found on any inspection that the vessel is not complying the provisions of this Part or any International Convention to which India is a party, the surveyor shall report it to the Principal Officer.

(3) On receipt of report under sub-section (2), the Principal Officer may take such action as may be necessary, including detention of such vessel, till such time the vessel is in compliance with the provisions of this Part or provisions applicable under the International Conventions, and may allow such vessel to proceed to sea, if it does not pose an unreasonable threat to safety or security or environment.

**127. (1)** If it appears that there was no reasonable or probable cause, by reason of the condition of the vessel or the act or default of the owner or master, for detention of the vessel, the Central Government shall be liable to pay to the owner of the vessel his costs of and incidental to the detention of the vessel and also compensation for any loss or damage sustained by him by reason of detention.

Liability for costs and damage when vessels detained.

(2) If a vessel is detained under this Part by reason of the condition of the vessel or due to the act or default of the owner or master, the owner of a vessel shall be liable to pay to the Central Government its costs of and incidental to the detention and survey of the vessel and the vessel shall not be released until such costs are paid and faults are rectified.

**128. (1)** The Central Government may make rules for safety and security requirements applicable to vessel, company or port facility under this Part.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the conditions under sub-section (1) of section 112 and the safety and security requirements under proviso to sub-section (1) of that section;

(b) the safety and security requirements for different classes of vessels and the certificates under sub-section (2) of section 112;

(c) the manner of reporting the particulars of incidents and the authority to whom such particulars to be reported under sub-section (1) of section 113;

(d) the manner of reporting the particulars of incidents and the authority to whom such particulars to be reported under sub-section (2) of section 113;

(e) the communication equipment, distress and safety equipment to be equipped and maintained, and the certified operators to be provided under section 116;

(f) the requirements for safety management or security management under sub-section (1) of section 125;

(g) the provisions with regard to insurance, classification and condition of vessel or any other relevant requirements under sub-section (1) of section 126; and

(h) any other matter which is required to be or may be prescribed.

## PART VII

### PREVENTION, CONTAINMENT OF POLLUTION FROM VESSEL AND RESPONSE

Application of  
this Part.

**129.** Save as otherwise provided, this Part shall apply to,—

(a) every Indian vessel;

(b) every vessel other than an Indian vessel;

(c) vessel not entitled to fly the flag of India but which operate under the authority of India;

(d) any vessel that enters a port, shipyard, or offshore terminal or place in India or within the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force;

80 of 1976.

(e) any incident of marine casualty or any act relating to such casualty occurring with grave and imminent danger to Indian coast line or maritime zones of India or related interests from pollution or threat of pollution in the sea or air either by deliberate, negligent or accidental release of oil, ballast water, noxious liquid substance, garbage, sewage, waste, harmful anti-fouling substances, harmful emissions or any other harmful substance including such incidents occurring on the high seas; and

(f) port, shipyard or offshore terminal for the purpose of providing reception facilities.

Definitions.

**130.** In this Part, unless the context otherwise requires,—

(a) "coastal waters" means any part of territorial waters of India, or any marine area adjacent thereto over which India has, or, may hereafter have, exclusive jurisdiction in regard to control of marine pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, or any other law for the time being in force;

80 of 1976.

(b) "harmful substance" means any substance, or form of energy, which, if introduced into the sea or air, is liable to create hazards to human health, harm living resources and marine life, damage amenities or interfere with other legitimate uses of the sea, air and includes any substance subject to control by any of the conventions to which India is a party;

(c) "vessel" means a vessel of any type whatsoever operating in the marine or aquatic environment and includes hydrofoil boats, air-cushion vehicles, submersibles,

floating craft, fixed or floating platforms, floating storage units and floating production storage and off-loading units.

**131.** (1) Unless otherwise expressly provided, all vessels shall be under an obligation to prevent discharge or emission of harmful substances or mixtures containing such substances and for that purpose, the Central Government may make rules requiring Indian vessel to be fitted with such equipment and to comply with such requirements relating to construction, survey of equipment and structure of such vessel and specifying conditions, prior to issuing a certificate under this Part.

Control of discharge or emission of harmful substances or dumping at sea.

(2) For the purpose of ensuring that the provisions of this section have been complied with, the Central Government may, either at the request of the owner or otherwise, arrange for the survey of the hull, equipment or machinery of any vessel by a surveyor and, if found fit, shall issue a certificates in accordance with the provisions of this Act and rules made there under in such form and for such duration subject to such conditions as may be prescribed.

(3) The Central Government may take all steps to prevent the pollution of the sea by the dumping of waste and other matter by vessels that is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

**132.** Every vessel shall, subject to such conditions as may be prescribed, comply with the provisions of the following convention, as applicable, namely:—

Requirements of prevention and containment of pollution and response.

(a) the MARPOL Convention;

(b) the Anti-Fouling Systems Convention;

(c) the Ballast Water Management Convention;

(d) any other Pollution Prevention Convention or agreement or treaty to which India is a party:

Provided that the vessel, to which the provisions of the above conventions are not applicable, shall comply with such pollution prevention requirements as may be prescribed:

Provided further that the vessel shall possess such different types of certificates and documents depending on the type, size, nature and area of operation of the vessel as may be prescribed.

**133.** No vessel shall proceed to sea unless there is in force in respect of such vessel the certificates required under the convention or agreement or treaty referred to in section 132.

Vessel not to proceed to sea without valid pollution prevention certificates.

**134.** (1) Every Indian vessel shall maintain such books of record in such form and manner as may be prescribed.

Record books.

(2) The manner in which record books shall be maintained, the nature of entries to be made therein, the custody and disposal thereof, and all other matters relating thereto shall be such as may be prescribed.

**135.** (1) The port, shipyard, ship breaking yards, ship repair unit, offshore facilities and terminals taking into account the international standards, shall provide such reception facilities and surveillance, supervision and guidance thereof as may be prescribed.

Reception facilities.

(2) The Central Government may give directions to be complied with by the port authorities, shipyard, ship breaking yards, ship repair unit, offshore facilities and terminals to take appropriate measures in its territory to require that wastes generated during operation, repair and re-cycling of vessel are collected, handled, treated and disposed of in a safe and environmentally sound manner, to protect human health and the environment.

(3) Notwithstanding anything contained in any other law for the time being in force, in respect of every port or place in India, the powers of the port authority or such persons under whose supervision such place is operated shall include the power to provide reception facilities in accordance with the requirements of the convention.

(4) A port authority providing reception facilities or a person providing such facilities by arrangement with the port authority, may impose charges for the use of the facilities at such rates and may impose such conditions in respect of the use thereof as may be notified by the Central Government in respect of the port.

(5) Where the Central Government is satisfied that there are no reception facilities at any port, shipyard, ship breaking yards, ship repair unit, offshore facilities and terminals in India or that the facilities available at such port or place are not adequate for enabling vessel calling at such port or place to comply with the requirements of the convention, the Central Government, may direct, by order in writing, such authority to provide or arrange for the provision of such reception facilities as may be specified in the order.

Powers to take measures for prevention or containment of pollution and reporting of incidents.

**136. (1)** When an incident in which the cargo or harmful substances, as covered under this Part or the Pollution prevention convention is escaping or likely to escape from a vessel and may cause or threaten to cause pollution of air, any part of coasts or coastal waters of India, the master of every vessel shall report the particulars of such incident to such authority in such manner as may be prescribed.

(2) The vessel referred to in sub-section (1) being abandoned, or a report from such vessel being incomplete, the Central Government shall fix the responsibility on the master of that vessel.

(3) Where the Central Government is satisfied that the cargo or harmful substances as covered under this Part or the Pollution prevention convention is escaping or likely to escape and may cause or threaten to cause pollution of air, any part of coasts or coastal waters of India, it may direct the owner, agent, master, charterer, operator, lessee or licensee of the vessel by notice served on him, to take following action, namely:—

(a) to prevent the escape of harmful substances from the vessel, as may be specified in such notice;

(b) to remove the cargo or oil or noxious liquid substance or harmful substance from the vessel, in such manner and to such place, if any, as may be specified in the notice;

(c) to remove the vessel to a place, if any, as may be specified in the notice;

(d) to remove the cargo or oil or noxious liquid substance or harmful substance slicks on the surface of the sea in such manner, if any, as may be specified in the notice; and

(e) to prohibit the removal of the vessel including any cargo or stores therein, from a place specified in the notice.

(4) Notwithstanding anything contained in sub-section (3), the Central Government may, if it is of the opinion that the pollution caused or likely to be caused by release of harmful substances has or may present a grave and imminent danger to the coastline or related interest from pollution or threat of pollution, proceed to take such measures as may be deemed necessary to prevent, mitigate or eliminate such threat or danger and any measures so taken shall be deemed to have been taken under this section.

(5) Where any person fails to comply, or fails to comply in part, with any notice served on him under sub-section (3), the Central Government may, whether or not such person is convicted of an offence under this Part by reason of his having so failed to comply, cause such action to be taken as it may deem necessary for,—

(a) carrying out the directives given in the notice issued under sub-section (1); and

(b) containing the pollution already caused or preventing the pollution threatened to be caused, of any part of the coast of India by any harmful substance escaped or threatening to escape from the vessel.

(6) Subject to the provisions of this Part any expenditure or liability incurred by the Central Government in, or by reason of, the exercise of powers under sub-section (4) in relation to any vessel in respect of which a notice had been issued under sub-section (3), shall be a debt due to the Central Government by the person or persons on whom the notice was served and may be recovered from that person, or as the case may be, from all or any of those persons and shall be a charge upon all or any vessel owned by that person or persons which may be detained by the Central Government until the amount is paid.

(7) Notwithstanding anything contained in sub-sections (3) to (6), to prevent, mitigate or eliminate grave and imminent danger to the coastline or related interests from pollution or threat of pollution following upon a maritime casualty or acts relating to such casualty on the high seas which may reasonably be expected to result in major harmful consequences to the Indian coastal water, the Central Government shall take such measures as may be necessary.

(8) The Central Government may make national or regional arrangement system for responding promptly and effectively to pollution incidents occurring within the zones under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force.

80 of 1976.

**137.** (1) Where for the purposes of taking any measures under sub-section (1) of section 136, the Central Government or any other officer authorised by it in this behalf may, if deems necessary so to do, direct, by an order in writing, the owner of any Indian vessel, tug, barge or any other equipment, to provide such services or assistance as may be specified in that order.

Power of the Central Government to give directions to certain vessels or persons to render certain service.

(2) The owner of any vessel, tug, barge or any other equipment with respect to which an order under sub-section (1) has been made shall be entitled to tariff rates of freight and charter hire, at reasonable rates having regard to current market conditions:

Provided that where tariff rates of freight are not fixed or where there is any dispute about reasonable rate of charter hire, the freight or, as the case may be, charter hire, shall be paid at such rates as may be fixed by the Central Government by an order in writing, subject to determination of reasonability of such rates of freight or charter hire by examining such witnesses, documents and accounts as it may deem necessary.

**138.** (1) The Central Government may, having regard to the provisions of the Pollution prevention convention, make rules to carry out the purposes of this Part.

Power to make rules.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such rules may provide for all or any of the following matter, namely:—

(a) the form and period of the certificate and conditions on which a certificate may be issued under sub-section (2) of section 131;

(b) the conditions to comply the provisions of the conventions under section 132;

(c) the pollution prevention requirements under first proviso to section 132;

(d) the different types of certificates and documents under second proviso to section 132;

(e) the form and manner of maintenance of record book under sub-section (1) of section 134;

(f) the other matter relating to maintenance of record book under sub-section (2) of section 134;

(g) the reception facilities, surveillance, supervisions and guidance under sub-section (1) of section 135;

(h) the manner of reporting the incident to the authority under sub-section (1) of section 136; and

(i) any other matter which is required to be or may be prescribed.

## PART VIII

### SURVEY, AUDIT AND CERTIFICATION

Survey, audit  
and  
certification.

**139.** (1) Every Indian vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminals shall unless otherwise exempted be surveyed or audited for verification of compliance with such requirements as may be prescribed.

(2) The Central Government, surveyor or any person authorised by it in this behalf may, if satisfied that any vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal has been surveyed or audited as per the requirements under the rules made under this Act or as required by convention to the extent of applicability, issue the appropriate certificate or, as the case may be, documents in respect of such vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal.

(3) Notwithstanding anything contained in this Act, where any survey, or, as the case may be, audit of a vessel, company, port shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal facility under this Part has been completed, the owner, agent or master of such vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal shall not make or cause to be made any alteration in the structure, equipment, fittings, arrangements, material, systems or scantlings covered by the survey or audit without the prior written permission of the Central Government or any person authorised by it in this behalf.

(4) If the Central Government or any person authorised by it has reason to believe that since the completion of last survey or audit, changes have been made to the structure, equipment, fittings, arrangements, material, systems or scantlings, or they have sustained any damage or are otherwise found insufficient, then the Central Government or any person authorised by it in this behalf may require that the vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal to be re-surveyed or audited to such extent as it may deem fit or may modify or revoke or suspend or cancel or surrender the certificates and documents in such manner as may be prescribed.

(5) Subject to any exemption granted by the Central Government, no vessel shall proceed to sea unless the owner, or master, of the vessel holds onboard all the applicable certificates or documents as required under this Act and the rules made thereunder.

*Explanation.*— For the purposes of this Part, the word “company” or “port facility” shall have the same meaning as assigned to it under clause (a) or (b) of section 111, respectively.

Certificates.

**140.** Every vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal shall, unless exempted, be in possession of such certificates as may be prescribed.

Power of  
surveyor.

**141.** (1) Except otherwise provided, for the purposes of this Act, a surveyor may, at any reasonable time, go on board a vessel, and may inspect or audit the vessel, and any part thereof, the structure, equipment, fittings, arrangements, materials, systems, scantlings, cargo, provisions, stores, her certificates, and certificates of the seafarers on board:

Provided that he does not unreasonably hinder the operation of the vessel, or unreasonably detain or delay her from proceeding on any voyage.

(2) The owner, agent, master or every officer of the vessel shall afford to the surveyor all reasonable facilities for a survey, and provide all such information in respect of the vessel and her structure, equipment, fittings, arrangements, materials, scantlings, systems, cargo,

provisions, stores, her certificates, and certificates of the seafarers, as the surveyor reasonably requires.

**142.** Notwithstanding anything contained in sub-section (1) of section 139, every vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal shall be surveyed, audited and certified to confirm the compliance of requirements as specified in the following conventions, namely:—

Compliance of provisions of convention.

- (a) the Safety Convention;
- (b) the MARPOL Convention;
- (c) the Anti-Fouling Systems Convention;
- (d) the Ballast Water Management Convention;
- (e) the Load Lines Conventions;
- (f) the Tonnage Measurement Convention, 1969;
- (g) the Special Trade Passenger Ships Agreement, 1971 and its Protocol;
- (h) the Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- (i) the International Convention on Maritime Search and Rescue, 1979 (SAR 1979);
- (j) the Maritime Labour Convention, 2006; or
- (k) any other convention relating to survey, audit or certification:

Provided that if every such vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal, as the case may be, is not covered under the provisions of the above conventions, such vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal, as the case may be, shall, for survey, audit and certification, comply with such requirements and in such manner as may be prescribed:

Provided further that different classes of vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal shall be surveyed, audited or certified with such requirements in such manner as may be prescribed.

**143.** A valid certificate issued under a convention in respect of a vessel other than an Indian vessel by the government of the country to which the vessel belongs shall subject to such rules as the Central Government may make in this behalf, have the same effect in India as the corresponding certificates issued in respect of an Indian vessel.

Recognition of certificates issued outside India.

**144.** (1) The Central Government may at the request of the government of a country to which convention applies cause an appropriate convention certificate to be issued in respect of a vessel registered or to be registered in that country, if it is satisfied in like manner as in the case of an Indian vessel that such certificate can properly be issued and where a certificate is issued at such a request it shall contain a statement that it has been so issued.

Issue of certificate to foreign vessels in India and Indian vessels in foreign countries.

(2) The Central Government may request the Government of a country to which the convention applies to issue an appropriate convention certificate in respect of a vessel registered or to be registered in India and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purpose of this Act as if it had been issued by the Central Government.

**145.** (1) The Central Government may make rules to carry out the purposes of this Part.

Power to make rules for this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the requirements for verification of vessel, company, port facility,

shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal under sub-section (1) of section 139;

(b) the manner of requirements and the manner of survey, audit and certification of vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal and modification, revocation, suspension, cancellation or surrender of the certificates and documents under sub-section (4) of section 139;

(c) the certificates to be possessed by a vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal under section 140;

(d) the manner of compliance for survey, audit and certification under first proviso to section 142;

(e) the requirement and manner of survey, audit and certification of different classes of vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal under second proviso to section 142;

(f) any other matter which is to be required or may be prescribed.

## PART IX

### MARITIME LIABILITY AND COMPENSATION

#### CHAPTER I

##### COLLISION, ACCIDENT AT SEA AND LIABILITY

Application of  
this Chapter.

**146.** This Chapter shall apply to,—

(a) Indian vessel; and

(b) any vessel other than an Indian vessel while it is at a port or place in India including, the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, jurisdiction under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force.

80 of 1976.

Apportionment  
of liability.

**147.** (1) If the collision, damage, or loss is caused by the fault of one of the vessels, the liability to make good the damages attaches to the one who has committed the fault.

(2) Whenever by the fault of two or more vessels damage or loss is caused to one or more of them or to the cargo of one or more of them or to any property on board one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was at fault:

Provided that—

(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;

(b) nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed;

(c) nothing in this section shall affect the liability of any person under any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(3) For the purposes of this Chapter, references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable in any law for the time being in force by way of damages.

**148.** (1) Whenever loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel or any other vessel or vessels, the liability of the owners of the vessels concerned shall be joint and several.

Damages for personal injury.

(2) Nothing in this section shall be construed as depriving any person of any right of defence on which, he might have relied in an action brought against him by the person injured, or any person entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates.

**149.** (1) Whenever loss of life or personal injuries are suffered by a person on board a vessel owing to the fault of that vessel and of any other vessel, and a proportion of the damages is recovered from the owner of one of the vessels which exceeds the proportion in which she was in fault, the said owner may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively in fault:

Right of contribution.

Provided that no amount shall be so recovered which shall not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which shall not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(2) In addition to any other remedy provided by law for the time being in force, the person entitled to any contribution under sub-section (1) shall, for the purpose of recovering the contribution, have subject to the provisions of this Act, the same rights, and powers as the persons entitled to sue for damages in the first instance.

**150.** In every case of collision between two vessels it shall be the duty of the master or person in-charge of each vessel, in and so far as he can do so without danger to his own vessel, crew and passengers, if any,—

Duty of master of vessel to assist in case of collision.

(a) to render to the other vessel, her master, crew and passengers, if any, such assistance as may be practicable and may be necessary to save them from any danger caused by the collision and to stay by the other vessel until he has ascertained that she has no need of further assistance; and

(b) to give to the masters or persons in-charge of the other vessels the name of his own vessel and of the port to which she belongs and also the names of the ports from which she comes and to which she is bound.

**151.** In every case of collision in which it is practicable so to do, the master of every vessel shall, immediately after the occurrence, cause a statement thereof and of the circumstances under which the same occurred to be entered in the official logbook, if any, and the entry shall be signed by the master and also by the officer on watch or one of the seafarer.

Collision to be entered in official log-book.

**152.** When an Indian vessel has sustained or caused any accident occasioning loss of life or any serious injury to any person or has received any material damage affecting her seaworthiness or her efficiency either in her hull or is so altered in any part of her machinery as not to correspond with the particulars contained in any of the certificates issued under this Act in respect of the vessel, the owner or master or agent shall, within twenty-four hours after the happening of the accident or damage or as soon thereafter as possible, transmit to the Central Government or the nearest Principal Officer a report of the accident or damage and of the probable cause thereof stating the name of the vessel, her official number, if any, her port of registry and the place where she is.

Report to Central Government of accidents to vessels.

**153.** If the owner or agent of any Indian vessel has reason, owing to the non-appearance of the vessel or to any other circumstance, to apprehend that the vessel has been wholly lost, he shall, as soon as conveniently may be, send notice, in writing, to the Central Government relating to the loss and the cause of such loss stating the name of the vessel, her official number, if any, and her port of registry.

Notice of loss of Indian vessel to be given to Central Government.

## CHAPTER II

## LIMITATION OF LIABILITY FOR MARITIME CLAIMS

Application of  
this Chapter.

**154.** This Chapter shall apply to,—

(a) Indian ship; and

(b) any ship other than an Indian ship while it is at a port or place in India including, the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, jurisdiction under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force.

80 of 1976.

Limitation of  
liability for  
damages in  
respect of  
certain  
claims.

**155.** (1) The shipowner or salvor or any person for whose act, neglect or default, the shipowner or salvor, or any such person, as the case may be, is responsible, and the insurer of liability for such claims, may limit his liability as provided,—

(a) claims of loss of life or personal injury or loss of or damage to property including damage to harbour works, basins and waterways and aids to navigation, occurring on board or in direct connection with the operation of the vessels or with salvage operations, and consequential loss resulting therefrom;

(b) claims of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;

(c) claims of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the vessel or salvage operations;

(d) claims of the raising, removal, destruction or the rendering harmless of a vessel which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such vessel;

(e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the vessel;

(f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with the convention, and further loss caused by such measures.

(2) The claims set out under sub-section (1) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise:

Provided that claims set out under clauses (d), (e) and (f) of sub-section (1) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

(3) Nothing in this section apply to,—

(a) claims for salvage, including, if applicable, any claim for special compensation under article 14 of the Salvage Convention, or contribution in general average;

(b) claims for oil pollution damage under Chapter III of this Part relating to civil liability for oil pollution damage;

(c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability, for nuclear damage;

(d) claims against the shipowner of a nuclear ship, for nuclear damage;

(e) claims by servant of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or

other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants, the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided in the provisions of LLMC Convention or the rules made under this Chapter.

*Explanation 1.*— For the purposes of this section, the act of invoking limitation of liability shall not be an admission of liability.

*Explanation 2.*— For the purposes of this Chapter,—

(a) the liability of a shipowner shall include the liability in an action brought against the ship herself;

(b) "shipowner" means the owner, charter, manager or operator of a sea-going vessel.

**156.** A person liable under section 155 shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss may probably result.

Conduct  
barring  
limitation.

**157.** Where a person entitled to limitation of liability under this Chapter has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Chapter shall only apply to the balance, if any.

Counter  
claims.

**158.** (1) The limits of liability for claims other than those mentioned in section 159 arising on any distinct occasion, shall be calculated in accordance with the provisions of LLMC Convention:

Limits of  
liability.

Provided that in cases where the provisions of the LLMC Convention are not applicable, the limit of liability shall be such as may be prescribed.

(2) Where the amount calculated in respect of claims for loss of life or personal injury is insufficient to pay such claims in full, the amount calculated in respect of other claims shall be made available for payment of the unpaid balance of claims in respect of claims for loss of life or personal injury and such unpaid balance shall rank rateably with claims in respect of other claims.

(3) Without prejudice to the right of claims for loss of life or personal injury according to the provision of sub-section (2), the claims in respect of damage to harbour works, basins, waterways and aids to navigation shall have priority over other claims.

(4) The limits of liability for any salvor not operating from any vessel or for any salvor operating solely on the vessel to, or in respect of which he is rendering salvage services, shall be calculated according to a gross tonnage of 1,500.

**159.** In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship the limit of liability of the shipowner thereof shall be such amount, as may be prescribed.

Limit for  
passenger  
claims.

*Explanation.*— For the purposes of this section, "claims arising in any distinct occasion for loss of life or personal injury to passengers of a ship" means any claim brought by or on behalf of any person carried in that ship,—

(a) under a contract of passenger carriage; or

(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

**160.** (1) The limits of liability determined in accordance with the provisions of section 158 shall apply to the aggregate of all claims which arise on any distinct occasion,—

Aggregation  
of claims.

(a) against the person or persons or any person for whose act, neglect or default he or they are responsible; or

(b) against a shipowner rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or

(c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

(2) The limits of liability determined in accordance with the provisions of section 159 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the shipowner in respect of the ship referred to in that section and any person for whose act, neglect or default he or they are responsible.

Limitation of liability.

**161.** (1) Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in section 162 has not been constituted.

(2) Where an action is brought to enforce a claim subject to limitation, a person liable may only invoke the right to limit liability if a limitation fund is or has been constituted in accordance with the provisions of this Chapter when the right to limit liability is invoked.

Constitution of limitation fund.

**162.** (1) Any person alleged to be liable may constitute a fund with the High Court in which legal proceedings are instituted in respect of claims subject to limitation.

(2) The fund shall be constituted in the sum of such of the amounts in accordance with the provisions of section 158 or section 159 as are applicable to claims for which that person may be liable, together with interest thereon from the date of occurrence giving rise to the liability until the date of the constitution of the fund.

(3) The fund constituted under sub-section (1) shall be,—

(a) by depositing the amount calculated under section 158 or section 159 with the High Court; or

(b) by producing a guarantee acceptable under any law for the time being in force and considered to be adequate by the court.

(4) The fund so constituted shall be available only for the payment of claims in respect of which limitation of liability may be invoked.

(5) The fund constituted by one of the persons referred to in section 161 or his insurer shall be deemed to be constituted by all persons mentioned in that section.

Distribution of the fund.

**163.** (1) Subject to the provisions of sections 158 and 159, the fund shall be distributed among the claimants in proportion to their established claims against the fund.

(2) If before the fund is distributed, the person liable or his insurer has settled a claim against the fund, such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Chapter.

(3) The right of subrogation provided for in sub-section (2) may also be exercised by persons other than those mentioned therein in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under any law for the time being in force.

(4) Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to sub-sections (2) and (3) had the compensation been paid before the fund was distributed, the High Court where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

Bar to other actions.

**164.** (1) Where a fund has been constituted under section 162, any person having made a claim against the fund shall be barred from exercising any right in respect of such

claim against any other assets of a person by or on behalf of whom the fund has been constituted.

(2) After a fund has been constituted under section 162, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached for a claim which may be raised against the fund, or any security given, may be released by an order of the High Court and such release shall always be ordered if the fund has been constituted with the High Court administering the fund.

(3) The provisions of sub-sections (1) and (2) shall apply only if the claimant may claim against the fund before the High Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

**165.** (1) The provisions of this Chapter shall apply whenever any person referred to in section 155 seeks to limit his liability before the High Court or seeks to procure the release of a ship or other property or the discharge of any security given within the Indian jurisdiction:

Scope of application.

Provided that the person who at the time when the provisions under this Chapter are invoked before any High Court does not have his habitual residence in India or does not have his principal place of business in India or any ship in relation to which the right of limitation is invoked or whose release is sought and which does not at the time specified above fly the flag of a country, which is a party to the LLMC Convention, shall be excluded from invoking the provisions of this Chapter.

(2) The provisions of this Chapter shall not apply to air-cushion vehicles or floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof.

**166.** (1) The Central Government may, having regard to the provisions of LLMC Convention, make rules to carry out the purposes of this Chapter.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the limits of liability in cases where the provisions of LLMC Convention are not applicable under proviso to sub-section (1) of section 158;

(b) the amount of limit of liability of the owner for loss of life or personal injury to passengers of a ship under section 159;

(c) any other matter which is required to be or may be prescribed.

### CHAPTER III

#### CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

**167.** This Chapter shall apply to,—

Application of this Chapter.

(a) pollution damage caused by,—

(i) Indian ship wherever it is; and

(ii) any ship other than an Indian ship while it is at a port or place in India including, the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, jurisdiction under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force;

(b) preventive measures, wherever taken, to prevent or minimise such pollution damage.

**168.** In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "incident" means any occurrence, or series of occurrences having the same

origin, which causes pollution damage or creates a grave and imminent threat of causing such damage;

(b) "oil" means any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil whether carried on board a ship as cargo or in the bunkers of such a ship;

(c) "owner" means,—

(i) the person registered as the owner of the ship; or

(ii) in the absence of registration, the person owning the ship; or

(iii) in the case of a ship owned by a country and operated by a company of that country, the persons registered in that country as the operator of such ship;

(d) "person" means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent sub-divisions;

(e) "pollution damage" means,—

(i) loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur:

Provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and

(ii) the costs of preventive measures and further loss or damage caused by preventive measures;

(f) "preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimise pollution damage;

(g) "ship" means any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo:

Provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard;

(h) "State of the ship's registry" means in relation to registered ships the State of registration of the ship, and in relation to unregistered ships the State whose flag the ship is flying.

Liability of owner.

**169.** (1) Save as otherwise provided in sub-sections (2) and (3) of this section, the owner of a ship at the time of an incident or where the incident consists of a series of occurrences, at the time of first of such occurrence, shall be liable for any pollution damage caused by the ship as a result of the incident.

(2) No liability for pollution damage shall attach to the owner, if he proves that the pollution damage,—

(a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) was wholly caused by an act or omission done with intent to cause damage by a third party.

(3) Where the owner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from his liability to such person.

(4) No claim for compensation for pollution damage may be made against the owner otherwise than in accordance with the provisions of this Chapter.

(5) Subject to sub-section (6), no claim for compensation for pollution damage under this Chapter or otherwise may be made against,—

(a) the servants or agents of the owner or the members of the crew;

(b) the pilot or any other person who, without being a member of the crew, performs services for the ship;

(c) any charterer (by whatever name called including a bareboat charterer), manager or operator of the ship;

(d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;

(e) any person taking preventive measures;

(f) all servants or agents of persons mentioned in clauses (c), (d) and (e),

unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage may probably result.

(6) Nothing in this Chapter shall prejudice any right of recourse of the owner against third parties.

**170.** When an incident involving two or more ships occurs and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under sub-section (3) of section 169, shall be jointly and severally liable for all such damage which is not reasonably separable.

Joint and several liability for ships.

**171. (1)** The owner may limit his liability under this Chapter in respect of any incident, to an aggregate amount in accordance with the provisions of the 1992 Liability Convention.

Limitation of liability.

(2) The owner shall not be entitled to limit his liability under this Chapter, if it is proved that the pollution damage resulted from his personal act or omission, committed or made with the intent to cause such damage, or recklessly and with knowledge that such damage may probably result.

**172. (1)(a)** Any owner, desiring to avail of the benefit of limitation of his liability under section 171, shall constitute a limitation fund (hereafter in this Chapter referred to as fund) for the total sum representing his limits of liability in the High Court.

Constitution of limitation fund.

(b) Such fund may be constituted either by depositing the sum with the High Court or by furnishing bank guarantee or such other security as, in the opinion of the High Court, is satisfactory.

(2) (a) The insurer or any other person providing financial security to the owner may apply to the High Court for constitution of the fund under sub-section (1) and any fund so constituted shall have the same effect as if it were constituted by the owner.

(b) Such fund may be constituted even in cases where sub-section (2) of section 171 applies but in any such event constitution of the fund shall not prejudice the rights of any claimant against the owner for full compensation exceeding the amount deposited or secured in the fund.

(3) The amount in Special Drawing Rights to be deposited or secured in the fund under sub-section (1) shall be converted in rupees on the basis of official value in rupees of the Special Drawing Rights as determined by the Reserve Bank of India on the date of constitution of the fund.

Acquisition of right for compensation by subrogation.

**173. (1)** Where, before the fund is distributed, the owner or any of his servants or agents or any person providing him insurance or other financial security has as a result of an incident paid compensation for pollution damage, such person shall upto the amount he has paid, acquire by subrogation the rights which the person so compensated may have enjoyed under this Chapter.

(2) Where the owner or any other person establishes that he may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which such person shall have enjoyed a right of subrogation under sub-section (1), had the compensation been paid before the fund was distributed, the High Court where the fund has been constituted, may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

Consolidation of claim and distribution of fund.

**174. (1)** The High Court shall consolidate all claims against the fund including those arising under section 173.

(2) Any claim in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise pollution damage shall rank equally with other claims against the fund.

(3) Subject to the provisions of sub-section (2) of section 173, the High Court shall distribute the amount in the fund among all claimants in proportion to their established claims.

Compulsory insurance or other financial guarantee.

**175. (1)** The owner of every ship carrying more than 2000 tons of oil in bulk as cargo shall, in respect of such ship, maintain an insurance or other financial security to cover his liability for pollution damage under this Chapter for the amount specified under the provisions of the 1992 Liability Convention.

(2) In respect of every Indian ship which maintains insurance or other financial security under sub-section (1), there shall be issued by the Central Government a certificate in such form and giving such particulars as may be prescribed.

(3) On an application by the owner or agent of any foreign ship, the Central Government may issue a certificate under sub-section (2) in respect of such foreign ship on production of satisfactory evidence relating to maintenance of insurance or other financial security in accordance with the provisions of the 1992 Liability Convention.

(4) For every certificate issued under sub-sections (2) and (3) there shall be charged such fee as may be prescribed.

Acceptance of certificate issued outside India.

**176.** Any certificate issued by a competent authority in any country outside India to a ship registered in that country or any certificate issued by a competent authority of any country which is a contracting party to the 1992 Liability Convention to any ship wherever it is registered, shall be accepted at any port or place in India as if it were issued under this Act.

Ban on entering or leaving an Indian Port without certificate.

**177. (1)** No Indian ship, which has on board more than 2000 tons of oil in bulk as cargo shall enter or leave or attempt to enter or leave any port or place in India, unless it carries on board a certificate issued under sub-section (2) of section 175 or a certificate accepted under section 176.

(2) No ship other than an Indian ship carrying more than 2000 tons of oil in bulk as cargo, wherever registered, shall enter or leave or attempt to enter or leave any port or place in India, unless it carries on board a certificate issued under sub-section (3) of section 175 or a certificate accepted under section 176.

(3) No proper officer shall grant inward entry or outward clearance to any ship to which sub-section (1) or, as the case may be, sub-section (2) applies, unless its master produces a certificate required under the respective sub-section.

**178.** (1) The insurer or other person providing financial security for the owner's liability for pollution damage may be directly liable for any claim for compensation for such damage.

Direct action against insurer or other person providing financial security.

(2) The insurer or other person referred to in sub-section (1) may, if the owner is not entitled to limit his liability in accordance with the provisions of section 171, avail himself such limits of liability as specified in that section.

(3) Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the owner's liability for pollution damage and in such cases the insurer or other person providing financial security may, even if the owner is not entitled to limit his liability in accordance with the provisions of section 171, avail himself such limits of liability as specified in that section.

(4) The insurer or other person providing financial security may further avail himself of the defences (other than the bankruptcy or winding up of the owner) which the owner himself would have been entitled to invoke and the defendant may avail himself of the defence that the pollution damage resulted from the wilful misconduct of the owner himself, but the defendant shall not avail himself of any other defence which he might have been entitled to invoke in proceedings brought by the owner against him.

(5) The insurer or other person providing financial security shall in any case have the right to require the owner to be joined in the proceedings.

(6) Any sum provided by insurance or by other financial security maintained in accordance with sub-section (1) of section 175 shall be available exclusively for the satisfaction of claims under this Chapter.

**179.** (1) The rights of compensation under this Chapter shall be extinguished unless an action is brought within a period of three years from the date when the damage occurred:

Limitation period.

Provided that, no action shall be made for compensation after six years from the date of the incident which caused the damage.

(2) If incident consists of a series of occurrences, the period of six years shall start from the date of the first occurrence.

**180.** Nothing in this Chapter shall apply to any ship of war or any ship for the time being used by the Government of any country for purposes other than commercial purposes.

Government ships.

**181.** (1) The Central Government may make rules to carry out the provisions of this Chapter.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of certificate and particulars to be given thereto under sub-section (2) of section 175;

(b) the fees to be charged for issue of certificates under sub-section (4) of section 175;

(c) any other matter which required to be or may be prescribed.

#### CHAPTER IV

##### CIVIL LIABILITY FOR BUNKER OIL POLLUTION DAMAGE

**182.** This Chapter applies to, —

Application of this Chapter.

(a) pollution damage caused due to escape or discharge of bunker oil from every Indian ship and from every ship other than an Indian ship while it is,—

(i) within the territory including territorial sea of India; or

(ii) at a port or a place in India or within the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, jurisdiction under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force; 80 of 1976.

(b) preventive measures, wherever taken, to prevent or minimise the pollution damage:

Provided that this Chapter shall not apply to warships, naval auxiliary or other vessels owned or operated by the Government and used, for the time being, only on Government non-commercial service:

Provided further that this Chapter shall not apply to pollution damage specified in Chapter III of this Part.

Definitions.

**183.** In this Chapter, unless the context otherwise requires,—

(a) "Bunker Convention" means the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2004;

(b) "bunker oil" means any hydrocarbon mineral oil, including lubricating oil, used or intended to be used for the operation or propulsion of the ship, and any residues of such oil;

(c) "Civil Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992;

(d) "incident" means any occurrence or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage;

(e) "person" means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent sub-divisions;

(f) "pollution damage" means,—

(i) loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur:

Provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement undertaken or to be undertaken; and

(ii) the costs of preventive measure and further loss or damage caused by preventive measures;

(g) "preventive measure" means any reasonable measures taken by any person after an incident has occurred to prevent or minimise pollution damage;

(h) "registered owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, and, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "registered owner" shall mean such company;

(i) "ship" means any sea-going vessel and sea borne craft, of any type whatsoever;

(j) "shipowner" means the owner, including the registered owner, bareboat charterer, manager or operator of the ship;

(k) "state of the ship's registry" means, in relation to a registered ship, the state of registration of the ship and, in relation to an unregistered ship, the State flag the ship is entitled to fly.

**184.** (1) Save as otherwise provided in section 186,—

Liability for  
bunker oil  
pollution.

(a) where pollution damage is caused due to discharge or escape of bunker oil on board or originating from the ship, the shipowner shall be liable for,—

(i) any pollution damage;

(ii) the cost of any reasonable measures taken for the purpose of preventing or minimising any pollution damage so caused or likely to be caused; and

(iii) any damage caused by any such preventive measure so taken:

Provided that where an incident consists of a series of occurrences having the same origin, the liability shall attach to the shipowner at the time of the first of such occurrences and where more than one person is liable, their liability shall be joint and several;

(b) where there arises a grave and imminent threat of damage being caused outside a ship, the shipowner shall be liable for the cost of any measures reasonably taken to prevent or minimise any such damage.

(2) Where any incident involving two or more ships occurs resulting in pollution damage, the shipowners of all ships involved in such incident shall, unless the damage is reasonably separable, be jointly and severally liable for such damage.

(3) With respect to ships owned by the Government or the Government of any country and used for commercial purposes, the Government or the Government of each of such country shall be liable for pollution damage under this Chapter.

**185.** (1) No liability for pollution damage shall be incurred by the shipowner under this Chapter, if he proves that such damage,—

Exemption  
from liability.

(a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) was wholly caused by any act or omission done with an intent to cause such damage by any person other than an employee or agent of the owner.

(2) If the shipowner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, then, he shall be wholly or partially exonerated from his liability to such person.

**186.** (1) The shipowner and the person providing insurance or other financial security shall be entitled to limit his liability under this Chapter, in respect of any one or more incident, in accordance with the provisions of Chapter II of this Part.

Right of  
owner to  
limitation of  
liability.

(2) The shipowner shall not be entitled to limit his liability if it is proved that the incident causing pollution damage occurred as a result of his personal act or omission, committed or made with intent to cause such damage, or recklessly and with knowledge that such damage may probably result.

**187.** (1) Where the shipowner is alleged to have incurred a liability under section 184, or his insurer, may make an application to the High Court for determination of limitation of his liability.

Determination  
of limitation  
of liability.

(2) After receiving the application under sub-section (1), the High Court may determine the amount of liability of shipowners and direct the shipowner or his insurer, as the case may be, to deposit such amount with the High Court.

**188.** The High Court may consolidate all claims against the shipowner or his insurer who has deposited the amount under section 187 and may distribute the amount amongst the claimants.

Consolidation  
of claims and  
distribution of  
amount.

Extinguishment  
of right to  
claim.

**189.** (1) The right to claim compensation under this Chapter shall be extinguished if such claim is not made within a period of three years from the date of occurrence of damage:

Provided that in no case, such claim may be made after six years from the date of incident which caused such damage.

(2) Where the incident consists of a series of occurrences, the period of six years shall run from the date of the first of such occurrence.

Maintenance  
of compulsory  
insurance or  
other financial  
security.

**190.** Every registered owner of a ship having gross tonnage of more than one thousand shall, for the purpose of his liability for pollution damage under this Chapter, maintain compulsory insurance coverage or such other financial security, to the limits specified under the provisions of the LLMC Convention.

Direct action  
against insurer  
or other  
person  
providing  
financial  
security.

**191.** (1) The insurer or other person providing financial security for the owner's liability for pollution damage may be liable for any claim for compensation for such damage.

(2) The insurer or other person referred to in sub-section (1) may, if the owner is not entitled to limit his liability in accordance with the provisions of section 184 may avail himself such limits of liability as may be prescribed.

(3) Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the registered owner's liability for pollution damage and in such a case, the insurer or such person may invoke defences (other than bankruptcy or winding up of the owner) which the shipowner would have been entitled to invoke, including limitation of liability pursuant to section 187:

Provided that where the shipowner is not entitled to limitation of liability under section 187, the insurer or such person may limit the liability to an amount equal to the amount of the insurance or other financial security required to be maintained under sub-section (1):

Provided further that the insurer or such person may invoke the defence that the pollution damage resulted from the wilful misconduct of the shipowner but shall not invoke any other defence which such insurer or person might have been entitled to invoke in proceedings brought by the shipowner against such insurer or person:

Provided also that the insurer or such person may make the shipowner as a party to such proceedings.

Issue of  
certificate.

**192.** (1) The Central Government shall issue a certificate in respect of every ship which maintains insurance or other financial security under section 190, in such form, containing such particulars and subject to such conditions and on payment of such fee, as may be prescribed.

(2) Every certificate issued under sub-section (1) shall be renewed after its expiry in such manner and on payment of such fee as may be prescribed.

Ban on  
entering or  
leaving port  
without  
certificate.

**193.** (1) No ship shall enter or leave or attempt to enter or leave any port or place to which this Chapter applies, unless it carries on board a certificate issued under section 192.

(2) Any certificate issued by a competent authority in any country outside India to a ship registered in that country or any certificate issued by a competent authority of any country which is a contracting party to the Bunker Convention to any ship wherever registered, shall be accepted at any port or place in India as if it were issued under this Act.

(3) No Proper Officer shall permit inward entry or outward clearance to any ship to which sub-section (1) or sub-section (2) applies unless the master of the ship produces the certificate referred to in that sub-section.

Right of  
recourse.

**194.** Nothing contained in this Chapter shall prejudice the right of recourse that the shipowner may have against any other person in respect of his liability.

**195.** (1) Any judgment passed by a Court shall be recognised in India except where, —

(a) the judgment was obtained by fraud; or

(b) the shipowner or the insurer or the person providing financial security who is a party to the proceedings was not given reasonable notice and a fair opportunity to present his case.

Recognition and enforcements of decision of the court.

(2) Any judgment passed by a court in accordance with the provision of the Bunker Convention under sub-section (1) shall be enforceable in India as soon as the procedures required have been complied with:

Provided that such procedure shall not permit the merits of the case to be re-opened.

**196.** (1) The Central Government may make rules to carry out the provisions of this Part.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the limits of liability of the insurer or other person providing financial security under sub-section (2) of section 191;

(b) the form of certificate, the particulars containing therein with the conditions and fee for issue of certificate under sub-section (1) of section 192;

(c) the manner of renewal of certificate and fees therefor under sub-section (2) of section 192;

(d) any other matter which is required to be or may be prescribed.

## CHAPTER V

### INTERNATIONAL OIL POLLUTION COMPENSATION FUND

**197.** This Chapter shall apply to pollution damage caused in the territory, including the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of marine pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force and to preventive measures, wherever taken, to prevent or minimize such damage.

Application.

80 of 1976.

**198.** In this Chapter unless the context otherwise requires,—

Definitions.

(a) "Contributing Oil" means crude oil and fuel oil;

*Explanation.*—For the purposes of this clause,—

(i) "crude oil" means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and includes crude oils from which certain distillate fractions have been removed (sometimes referred to as "topped crudes") or to which certain distillate fractions have been added (sometimes referred to as "spiked" or "reconstituted" crudes),

(ii) "fuel oil" means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the "American Society for Testing and Materials' Specification for Number Four Fuel Oil (Designation D 396-69)", or heavier.

(b) "Fund" means the International Oil Pollution Compensation Fund, 1992 established by Article 2 of the Fund Convention;

(c) "Fund Convention" means the International Convention on the establishment of an International Fund for Compensation for Oil Pollution Damage, 1992;

(d) “Guarantor” means any person providing insurance or other financial security to cover an owner's liability in pursuance of paragraph 1 of Article VII of the 1992 Liability Convention;

(e) “Incident”, “Oil”, “Organisation”, “Owner”, “Person”, “Pollution Damage”, “Preventive Measures” or “ship” shall have same meaning as assigned to it in the 1992 Liability Convention;

(f) “Ship's tonnage” shall have the same meaning as assigned to in paragraph 10 of Article V of the 1992 Liability Convention;

(g) “Terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated off-shore and linked to such site;

(h) “Ton”, in relation to oil, means a metric ton.

Contribution  
to Fund.

**199.** (1) Contribution to the Fund, in respect of contributing oil carried by sea to ports or terminal installations in India, shall be payable in accordance with Articles 10 and 12 of the Fund Convention.

(2) The provisions of sub-section (1) shall apply whether or not the contributing oil is imported, and notwithstanding that contributions are payable to the Fund, in respect of carriage of the same contributing oil on a previous voyage.

(3) The contributions shall also be payable to the Fund in respect of contributing oil when first received in any installation in India after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) The person liable to pay contributions to the Fund shall be—

(a) in case of contributing oil which is being imported into India, the importer; or

(b) in any other case, the person by whom the oil is received in India.

(5) A person shall not be liable to pay contributions to the Fund, in respect of the contributing oil imported or received by him in any year if the quantity of contributing oil so imported or received in the year does not exceed one hundred and fifty thousand tons or as may be specified from time to time in the Fund Convention.

*Explanation.*—For the purposes of sub-section (3) of this section, “Fund Convention country” means a country in which the Fund Convention is for the time being in force.

Contribution  
payable by  
persons to the  
Fund.

**200.** (1) The contributions payable to the Fund by a person for any year shall be,—

(a) such amounts as may be determined by the Assembly of the Fund under Articles 10 and 12 of the Fund Convention;

(b) in such instalments, becoming due at such dates, as may be notified and if any amount due from such person remains unpaid after the date on which it became due, it shall be from that due date bear interest at a rate determined by the said Assembly until it is paid.

(2) The Central Government may require persons, who are or may be liable to pay contributions to the Fund under section 199, to give financial security for payment of contributions to the Central Government or the Fund.

Liability of  
Fund.

**201.** (1) Where any person suffering pollution damage has been unable to obtain full and adequate compensation for the damage under the provisions of 1992 Liability Convention, the Fund shall be liable to pay compensation for pollution damage to such person if,—

(a) no liability for the damage arises in accordance with the provisions of the 1992 Liability Convention;

(b) the owner liable for the damage under the provisions of 1992 Liability

Convention is financially incapable of meeting his obligations in full and any financial security that may be provided under the Convention does not cover or is insufficient to satisfy the claims for compensation for the damage;

(c) the damage exceeds the owner's liability under the provisions of 1992 Liability Convention as limited pursuant therein.

(2) Expenses incurred or sacrifices made by the owner voluntarily to prevent or minimize pollution damage shall be treated as pollution damage for the purposes of this section.

(3) The Fund shall incur no obligation under sub-section (1) if,—

(a) it proves that the pollution damage resulted from an act of war, hostilities, civil war or insurrection or was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the incident, only on Government non-commercial service; or

(b) the claimant cannot prove that the damage resulted from an incident involving one or more vessel.

(4) If the Fund proves that the pollution damage resulted wholly or partly either from an act or omission done with the intent to cause damage by the person who suffered the damage or from the negligence of that person, the Fund may be exonerated wholly or partly from its obligation to pay compensation to such person.

(5) The Fund shall in any event be exonerated to the extent that the vessel owner may have been exonerated under the provisions of 1992 Liability Convention:

Provided that there shall be no such exoneration of the Fund with regard to preventive measures.

**202.** (1) The Central Government may, for the purposes of transmitting to the Fund, the names and addresses of the persons who under the provisions of section 197 are liable to make contributions to the Fund every year and the quantity of contributing oil in respect of which they are so liable, by notice, require to any such person to furnish such information as may be specified therein.

Power to call for information.

(2) A notice under sub-section (1) may specify the manner in which, and the time within which, such notice shall be complied with.

(3) In proceedings by the Fund against any person to recover any amount due under section 197, particulars contained in any list transmitted by the Central Government to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list, and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(4) No person shall disclose any information which has been furnished to or obtained by him under this section unless the disclosure is made,—

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the compliance of this section;

(c) for the purpose of any legal proceedings arising out of this section or of any report of such proceedings.

(5) A person who,—

(a) refuses or wilfully neglects to comply with a notice under this section; or

(b) makes, while furnishing any information in compliance with a notice under this section, any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence punishable under this Act.

Claims against fund and Jurisdiction of Courts.

**203.** (1) Any claim against the Fund for compensation under this Chapter shall be brought directly before the Fund.

(2) Any action for a claim against the Fund shall be brought before the High Court.

(3) Where an action for compensation for pollution damage has been brought against the owner or his guarantor before the High Court each party to the proceedings may notify the Fund of the proceedings.

(4) The Fund shall have the right to intervene as a party to any legal proceedings instituted in the High Court against the owner or his Guarantor.

(5) Where such notice of proceedings has been given to the Fund, any judgment given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund to the effect that the facts and evidence in that judgment may not be disputed by the Fund on the ground that it has not intervened in the proceedings.

Extinguishment of claims.

**204.** Notwithstanding anything contained in any other law for the time being in force, no action to enforce a claim against the Fund under this Chapter shall be entertained by a High Court, unless,—

(a) the action to enforce is commenced; or

(b) notice of action to enforce a claim against the owner or his guarantor in respect of the same pollution damage is given to the Fund,

within three years from the date when the damage occurred:

Provided that no action to enforce a claim shall be brought after six years from the date of the incident that caused such damage.

Subrogation and right of recourse.

**205.** In respect of any sum paid by a public authority in India or the Fund, as the case may be, as compensation for pollution damage, that authority or the Fund shall acquire by subrogation any rights which the person so compensated would have enjoyed under the Fund Convention.

Power to make rules.

**206.** The Central Government may make rules to carry out the provisions of the Fund Convention.

## PART X

### INVESTIGATION AND INQUIRIES

Marine casualties and report thereof.

**207.** (1) For the purposes of investigations and inquiries under this Part, a marine casualty shall be deemed to be an event, or sequences of events that has resulted in any of the following and has occurred directly by, or in connection with the operations of Indian vessels and vessels other than Indian vessels, when,—

(a) on or near the coast of India, any vessel is lost, abandoned, stranded or materially damaged;

(b) on or near the coast of India, any vessel causes loss or material damage to any other vessel;

(c) any loss of life or presumed loss of life, ensues by reason of any casualty happening, or otherwise, to or on board any vessel, on or near the coast of India;

(d) any loss of life or presumed loss of life, ensues by reason of any casualty happening, or otherwise, to an Indian national on board any vessel, anywhere in the world;

(e) in any place, any such loss, abandonment, stranding, material damage or casualty as mentioned above occurs to or on board any Indian vessel, and any competent witness thereof is found in India;

(f) any Indian vessel is lost or is supposed to have been lost, and any evidence is obtainable in India as to the circumstances under which she proceeded to sea or was last heard of;

80 of 1976.

(g) in any place within the zones under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, pollution, or the potential threat of such pollution to the environment, or severe damage to the environment, or the potential to severe damage to the environment is caused of a vessel;

(h) a fire or explosion takes place on any Indian vessel anywhere in the world, or a fire or explosion takes place on a vessel other than an Indian vessel, while such vessel is on, or near, the coast of India.

(2) In the cases mentioned in sub-section (1), the owner, manager, operator, company, pilot, harbour-master, master, or other person in charge of the vessel, or, where two vessels are concerned, in charge of each vessel at the time of the marine casualty, as the case may be, shall, within twenty-four hours of the occurrence, give notice of the marine casualty to the officer appointed in this behalf by the Central Government.

(3) Wherever any such officer receives the notice of the marine casualty under sub-section (2), he shall forthwith report in writing the information to the Central Government and may proceed to make preliminary inquiry into the marine casualty and shall furnish the report on completion of independent inquiry into the incident.

(4) The Central Government may, for the purposes of the investigation, appoint a body to conduct a marine safety investigation in accordance with the Safety Convention.

(5) The body appointed under sub-section (4) shall, make preliminary assessment of the marine casualty and conduct a marine safety investigation for ascertaining its causes and circumstances and submit its report to the Central Government.

*Explanation.*— For the purposes of this Part, the word “company” has the same meaning as assigned to it in clause (a) of section 111.

**208.** On receipt of report under sub-section (5) of section 207 or otherwise, if the Central Government is of the opinion that *prima facie*, there exists, incompetency, misconduct or violation of any law for the time being in force on part of any person, it may,—

Power of Central Government to initiate proceedings.

(a) initiate administrative action; and

(b) direct such officer or other authority having jurisdiction over the area to initiate any proceedings, as may be required in accordance with the provision of any law for the time being in force.

**209.** The Central Government may, by order, cancel or suspend any certificate granted under this Act to any seafarer for any specified period,—

Power to cancel, suspend, etc., certificate of seafarers.

(a) if the inquiry report or investigation report reveals that the seafarer is incompetent or has been guilty of misconduct;

(b) in a case of collision, the seafarer has failed to render assistance;

(c) if the seafarer has been convicted of any offence under this Act or any non-bailable offence committed under any other law for the time being in force in India or outside India;

(d) the casualty, if any, has been caused by wrongful act or default of the seafarer; or

(e) if the seafarer to whom the certificate has been granted contravenes any provisions of this Act:

Provided that no order under this section shall be passed unless the person concerned has been given an opportunity of making a representation against such order.

Re-hearing.

**210.** Whenever an investigation or inquiry has been made under this Act, the Central Government may order the case to be re-heard either generally or as to any part thereof, and shall so order,—

(a) if new and important evidence which could not be produced at the time of investigation has been discovered; or

(b) if for any other reason there has, in its opinion, been a miscarriage of justice.

## PART XI

### WRECK AND SALVAGE

#### CHAPTER I

##### WRECK

Application of this Chapter to wrecks.

**211.** This Chapter shall apply to the wrecks located within the territory of India including the territorial sea or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976:

80 of 1976.

Provided that this Chapter shall not apply to,—

(a) any measures taken under the International Convention relating to the Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969;

(b) any warship or other vessel owned or operated by the Government for non-commercial service.

Definitions.

**212.** In this Chapter, unless the context otherwise requires,—

(a) “authority” means the Central Government or any person authorised by it;

(b) “affected country” means the country in whose Convention area the wreck is located;

(c) “Convention” means the Nairobi Convention on the Removal of Wrecks, 2007;

(d) “Convention area” means the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than two hundred nautical miles from the baselines from which the breadth of its territorial sea is measured;

(e) “hazard” means any condition or threat, that,—

(i) poses a danger or impediment to navigation; or

(ii) may reasonably be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of India or any other Country;

(f) “maritime casualty” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or its cargo;

(g) “operator of the ship” means the owner of the ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code;

(h) “receiver of wreck” means a person appointed as such under sub-section (1) of section 213;

(i) “registered owner” means the person registered as the owner of the ship or, in the absence of registration, the person owning the ship at the time of the maritime casualty:

Provided that in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, “registered owner” shall mean such company;

(j) “related interests”, in relation to the interest of India directly affected or threatened by a wreck, means—

(i) maritime coastal, port and estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;

(ii) tourist attractions and other economic interests of the areas concerned;

(iii) the health of the coastal population and the well being of the area concerned, including conservation of marine living resources and of wild life; and

(iv) offshore and underwater infrastructure.

(k) “removal” means any form of prevention, mitigation or elimination of the hazard created by a wreck, and the expressions “remove”, “removed” and “removing” shall be construed accordingly;

(l) “ship” means a sea-going vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources;

(m) “state of the ship’s registry” means,—

(i) in relation to a registered ship, the country of registration of the ship; and

(ii) in relation to an unregistered ship, the country, under whose flag the ship is entitled to fly.

(n) “wreck”, in relation to maritime casualty, means, —

(i) a sunken or stranded ship;

(ii) any part of a sunken or stranded ship, including any object or goods or cargo that is or has been on board such a ship;

(iii) any object or goods or cargo that is lost at sea from a ship and that is stranded, sunken or adrift at sea;

(iv) a ship that is in distress or is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken; or

(v) a ship abandoned without hope or intention of recovery.

*Explanation.*—For the purposes of this sub-clause, any question as to whether the measures adopted to assist the ship or any property in danger are effectively being taken or not shall be decided by the Director-General.

**213. (1)** The Central Government, may by notification, appoint any person to be the receiver of wreck to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such limits as may be specified in that notification.

Receivers of wreck.

(2) The receiver of wreck shall receive and take possession of wreck with all powers in respect thereof, including powers for disposal or sale of the wreck, power to give notices, power to enforce performance of obligations by owner, operator, insurer of the vessel, as

provided in this Chapter, and take such action as require to remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of maritime environment.

Duty to report wrecks.

**214.** (1) When any Indian ship has been involved in a maritime casualty resulting in a wreck in any area to which this Chapter applies, the master or owner or the operator of the ship shall, without any delay, report such incident to the receiver of wreck and the Central Government.

(2) When any Indian ship has been involved in a maritime casualty resulting in a wreck in a Convention area of any country, the master and the operator of that ship shall, without any delay, report such incident to the affected country in such manner as may be required by that country and shall also report such incident to the Central Government.

(3) When any ship other than Indian ship has been involved in a maritime casualty resulting in a wreck in any area to which this Chapter applies, the master and the operator of the ship shall, without any delay, report such incident to the receiver of wreck and the Central Government.

Determination of hazard.

**215.** For determining as to whether a wreck poses a hazard or not, the following criteria shall be taken into account, namely:—

(a) the type, size and construction of the wreck;

(b) depth of the water in the area;

(c) tidal range and currents in the area;

(d) proximity to protected areas including coral reefs and other areas as notified by the Government;

(e) particularly sensitive sea areas identified and, as appropriate, designated in accordance with guidelines adopted by the International Maritime Organisation, or a clearly defined area of the exclusive economic zone where special mandatory measures have been adopted in accordance with requirements of the United Nations Convention on the Law of the Sea, 1982;

(f) proximity of shipping routes or established traffic lanes;

(g) traffic density and frequency;

(h) type of traffic;

(i) nature and quantity of the wreck's cargo, the amount and types of oil (such as bunker oil and lubricating oil) on board the wreck and, in particular, the damage likely to result if the cargo or oil is released into the marine environment;

(j) vulnerability of port and port facilities;

(k) prevailing meteorological and hydrographical conditions;

(l) submarine topography of the area;

(m) height of the wreck above or below the surface of the water at lowest astronomical tide;

(n) acoustic and magnetic profiles of the wreck;

(o) proximity of offshore installations, pipelines, telecommunication cables and similar structures;

(p) proximity of tourist spots and heritage locations; and

(q) any other circumstances that might necessitate the removal of the wreck.

**216.** (1) The Central Government may, if considers necessary, give directions to a receiver of wreck or any other person or authority including the Director-General of Light House or the Port Authority or a Maritime Board or Indian Coast Guard, as the case may be, within their respective jurisdiction to locate or mark the wreck, or both.

Locating and marking of wrecks.

(2) When a wreck has been determined to be a hazard, it shall be the duty of the owner or the operator of such a vessel,—

(a) to immediately mark the wreck at his or its own cost in such manner as may be prescribed; and

(b) to maintain the marking until the wreck is removed.

(3) The cost for locating and marking the vessel shall be borne by or recovered from the owner or the operator of such a vessel.

**217.** (1) Whenever a vessel is wrecked, stranded or in distress, all persons may, for the purpose of rendering assistance to the ship or of saving the lives of the shipwrecked persons, or of saving the cargo or equipment of the vessel, unless there is some public road equally convenient, pass and repass, either with or without vehicles or animals, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible and may also on the like condition, deposit on these lands any cargo or other article recovered from the vessel.

Power to pass over adjoining lands.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights under this section shall be a charge on the vessel, cargo or articles in respect of or by which the damage is sustained and in case of dispute, the amount payable in respect of such damage shall be determined by a Magistrate on an application made to him in this behalf.

**218.** No person shall,—

(a) without the leave of the master, board or attempt to board any vessel which is wrecked, stranded or in distress, unless the person is, or acts by command of, the receiver of wreck; or

Prohibition of certain acts in respect of wreck.

(b) impede or hinder or attempt in any way to impede or hinder the saving of any vessel stranded or in danger of being stranded or otherwise in distress in any area to which this Chapter applies or of any part of the cargo or equipment of the vessel, or of any wreck; or

(c) secrete any wreck or deface or obliterate any marks thereon; or

(d) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded or otherwise in distress, in any area to which this Chapter applies, or any part of the cargo or equipment of the vessel or any wreck.

**219.** Where a receiver of wreck suspects or receives information that any wreck is secreted or is in the possession of some person who is not the owner thereof or that any wreck is otherwise improperly dealt with, he may apply to the nearest Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be, for a search warrant, and that Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be, shall have power to grant such warrant and the receiver of wreck by virtue thereof may enter any house or other place wherever situate and also any vessel and search for, seize and detain any such wreck found thereof.

Search warrants where wreck is involved.

**220.** (1) When it is determined that the wreck constitutes a hazard, the receiver of wreck shall give the detail information to the Central Government.

(2) The Central Government, on receipt of information under sub-section (1), shall—

(a) inform the government of the country of the vessel registry and the registered owner of the vessel; and

Measures to facilitate the removal of wrecks.

(b) consult the government of the country of the vessel registry and other countries affected by the wreck regarding measures to be taken in relation to such wreck.

(3) The registered owner of the vessel or, as the case may be, the operator of the vessel shall remove such wreck which has been determined to constitute a hazard:

Provided that where any dispute arises as to whether the wreck constitutes a hazard or not, the decision of the Central Government shall be final and binding on all parties.

(4) When a wreck has been determined to constitute a hazard, the registered owner of the vessel or, as the case may be, any interested person shall provide to the Central Government or the receiver of wreck with the evidence of insurance or other financial security maintained by him in accordance with the provisions of this Act.

(5) The receiver of wreck shall, having regard to the nature of the hazard, set such time limit as may be prescribed for the owner of the vessel or its operator to remove the wreck.

(6) If the owner of the vessel or its operator does not remove the wreck within the time under sub-section (5), the receiver of wreck may, at the expense of such owner or operator, remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment and the wreck or any sale proceeds derived from such wreck shall become the property of the Central Government.

(7) Where immediate action is required and the receiver of wreck has informed the owner of the vessel or the operator accordingly, he may, at the expense of such owner or operator, remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.

**221.** (1) The registered owner shall be liable for the costs of locating, marking and removing the wreck under this Chapter unless he proves that the maritime casualty which caused the wreck,—

(a) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) was wholly caused by act or omission done with an intent to cause damage by a third party; or

(c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

(2) Nothing contained in this Chapter shall affect the right of the registered owner to limit his liability in accordance with the provisions of section 155.

(3) Nothing contained in this Part shall prejudice any right of recourse available to the registered owner against third parties.

**222.** (1) Every registered owner of an Indian ship of gross tonnage three hundred and above shall, for the purpose of covering his liability under this Chapter, be required to maintain compulsory insurance coverage or such other financial security, as may be prescribed.

Maintenance  
of insurance  
or other  
financial  
security.

(2) Every owner of a vessel or operator of a vessel other than an Indian vessel of gross tonnage of three hundred and above, while it is in the area to which this Chapter applies, shall maintain insurance coverage or other financial security to cover his liability under the Convention and shall carry on board a certificate attesting that such insurance or other financial security is in force in accordance with the provisions of the Convention.

(3) The certificate referred to in sub-section (2) shall, in case the vessel is,—

(a) an Indian vessel, be issued by the Authority;

(b) registered in a Convention country other than India, be issued by or under the authority of the Government of that country; and

(c) registered in a country which is not a Convention country, be issued or

certified by the appropriate authority authorised by any Convention country.

(4) Any vessel found contravening the provisions of sub-section (2) shall be liable to be detained by the Authority.

(5) Any claim for costs arising under this Chapter may be brought directly against the insurer or other person providing financial security for the registered owner's liability and in such a case, the insurer or such person may invoke defences (other than bankruptcy or winding up of the registered owner) which the registered owner would have been entitled to invoke, including limitation of liability as provided under the provisions of this Act:

Provided that where the registered owner is not entitled to limitation of liability under the provisions of this Act, the insurer or such person may limit liability to an amount equal to the amount of the insurance or other financial security required to be maintained under sub-section (1):

Provided further that the insurer or such person may invoke the defence that the maritime casualty resulted from the wilful misconduct of the registered owner but shall not invoke any other defence which such insurer or person might have been entitled to invoke in proceedings brought by the registered owner against such insurer or person:

Provided also that the insurer or such person shall have the right to require the registered owner to be joined in such proceedings.

**223.** (1) The registered owner shall not be liable under this Chapter for meeting the costs referred to in sub-section (5) of section 222 if, and to the extent that, liability for such costs is in conflict with,—

Exception to liability.

(a) any other Chapter or provisions of this Act;

(b) the provisions of the Civil Liability for Nuclear Damage Act, 2010; or

(c) any other applicable or binding international legal instrument which India adopts.

38 of 2010.

(2) Where measures are taken under this Chapter to the extent such measures are construed to be salvage under the provisions of section 229, the provisions of said section 229 shall apply for the purposes of remuneration or compensation payable to salvors.

*Explanation.*—For the removal of doubts, it is hereby clarified that the provisions of this section shall be construed harmoniously with the provisions of the Indian Ports Act, 1908 and in case of any ambiguity or conflict thereof, the provisions of the Indian Ports Act, 1908 shall prevail.

15 of 1908.

**224.** (1) The owner of any wreck in the possession of the receiver upon establishing his claim to the same to the satisfaction of the receiver within one year from the time at which the wreck came into the possession of the receiver shall, upon paying the salvage and other charges, be entitled to have the wreck or the proceeds thereof delivered to him.

Claims of owners to wreck.

(2) Where any articles belonging to or forming part of a vessel other than an Indian vessel which has been wrecked or belonging to and forming part of the cargo of such vessel, are found in any area to which this Chapter applies or are brought into any port in India, the consular officer of the country in which the vessel is registered or, in the case of cargo, the country to which the owners of the cargo may have belonged shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, with respect to the custody and disposal of the articles.

(3) Where the owner of the wreck does not appear and claim the balance of the proceeds of sale within one year from the date of sale, the said balance shall become the property of the Central Government.

**225.** Any claim for recovery of costs for locating and marking of the vessel under

Extinguishment of right to claim recovery of costs.

sub-section (3) of section 216 shall be made within a period of three years from the date of determination of the hazard:

Provided that no claim shall be made after six years from the date of the maritime casualty that resulted in the wreck:

Provided further that where the maritime casualty consists of a series of occurrences, the six years period shall run from the date of the first occurrence.

## CHAPTER II

### SALVAGE

Application of this Chapter to salvage.

**226.** (1) This Chapter applies to judicial or arbitral proceedings relating to salvage operations in respect of a vessel or any other property, which are instituted in India:

Provided that this Chapter shall not apply to the fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources:

Provided further that this Chapter shall not apply to warships or other non-commercial vessels owned or operated by the Government which are entitled, at the time of salvage operations, to sovereign immunity.

(2) This Chapter shall apply, notwithstanding that the vessel undertaking the salvage operations belong to the same owner of the vessel.

Definitions.

**227.** In this Chapter, unless the context otherwise requires,—

(a) “damage to the environment” means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents;

(b) “payment” means any reward, remuneration or compensation due under the Salvage Convention;

(c) “property” means any property not permanently and intentionally attached to the shoreline and includes freight at risk;

(d) “Salvage Convention” means International Convention on Salvage, 1989;

(e) “salvage operation” means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or any other waters to which this Chapter applies and includes,—

(i) the raising, removal, destruction or rendering a vessel harmless which is sunk, wrecked, stranded or abandoned including anything that is or has been on board such vessel;

(ii) the removal, destruction or rendering the cargo of a vessel harmless;

(iii) the measures taken to avert or minimise loss to a vessel or its cargo or both; and

(iv) any other salvage services.

(f) “salvor” means any person rendering services in direct connection with salvage operation;

(g) “vessel” means any ship or craft, or any structure capable of navigation.

Salvage award.

**228.** Every master who, renders assistance to any person in danger of being lost at sea, or to property, shall be paid a salvage award for such assistance.

**229.** (1) Where services are rendered,—

Salvage payable for saving life, cargo or wreck.

(a) wholly or in part within the territorial waters of India in saving life from any vessel, or elsewhere in saving life from a vessel registered in India;

(b) in assisting a vessel or saving the cargo or equipment of a vessel which is wrecked, stranded or in distress at any place to which this Chapter applies as specified in section 226; or

(c) by any person other than the receiver of wreck in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo, equipment, a reasonable sum for salvage having regard to all the circumstances of the case.

(2) Salvage in respect of the preservation of life when payable by the owner of the vessel shall be payable in priority to all other claims for salvage.

**230.** Where salvage operation are rendered by or on behalf of the Government or by a vessel of the Indian Navy or of the Coast Guard or the commander or crew of any such vessel or the port authorities or any public authority, as the case may be, it shall be entitled to salvage and payment for such services as provided under this Chapter and shall have the same rights and remedies in respect of those services as any other salvor.

Salvage operations controlled by Government or port and public authorities. Salvage Contracts.

**231.** (1) Subject to the provisions contained in section 232, this Chapter shall apply to any salvage operation save to the extent that a contract otherwise provides expressly or by implication.

(2) The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel.

(3) The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.

**232.** (1) The salvor shall have the following duties towards the owner of the vessel or other property in danger, namely:—

Duties of salvor, owner and master.

(a) to carry out the salvage operations with due care;

(b) to exercise due care to prevent or minimise damage to the environment during salvage operations;

(c) to seek assistance from other salvors including port authorities or public authorities when circumstances so require; and

(d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger:

Provided that if it is found that such a request was unreasonable, it shall not prejudice the amount of reward of such salvor.

(2) The owner, master of the vessel or the owner of other property who is in danger shall have the following duties towards the salvor, namely:—

(a) to co-operate fully with the salvor during the course of the salvage operations;

(b) to exercise due care to prevent or minimize damage to the environment during the salvage operations;

(c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so; and

(d) to provide satisfactory security for the claim, including interest and costs of the salvor for salvage operations, at the request of the salvor.

**233.** (1) The Central Government shall take such measures as may be prescribed to protect its coastline or related interests from pollution or threat of pollution arising out of a maritime casualty or acts relating to such casualty which may result in major harmful consequences.

Rights and duties of Central Government in relation to salvage operations.

(2) The Central Government shall give such directions as it deems fit to the concerned vessel owner or the master or the salvor or a port authority or a public authority or any other person in relation to salvage operations.

(3) The Central Government shall, for the purposes of efficient and effective salvage operations, saving life or property in danger and preventing damage to the environment, seek cooperation from the concerned vessel owner or the master or the salvor or a port authority or a public authority or any other person, to give assistance to vessel in need, to admit to ports of vessel in distress or in need of assistance and to give facilities to salvors.

Rights of  
salvors.

**234.** (1) A salvor shall have a right to payment for the services rendered by him relating to salvage operations:

Provided that no such payment shall be made where there is express and reasonable prohibition from the owner or master of vessel or owner of any other property in danger.

(2) The criteria for claiming rewards, the manner of fixing rewards, the payment of special compensation, the apportionment of payment amongst salvors, the salvage of persons, the payment under the contract, the payment for additional services not covered under the contract and the effect of misconduct of salvors on reward or payment under this Chapter shall be such as may be prescribed.

(3) The salvor shall have right to enforce his maritime lien against the owner or master of vessel or owner of any other property in danger when satisfactory security for his claim, including interest and costs, has not been provided by such person.

Adjudication  
of disputes.

**235.** (1) A dispute relating to claims under this Part shall be determined upon application made by either of the disputing parties to the concerned High Court.

(2) Where there is any dispute as to the persons who are entitled to the salvage amount under this section, the High Court shall decide the dispute and if there are more persons than one entitled to such amount, the High Court shall apportion the amount thereof, among such persons.

(3) The cost of and incidental to all proceedings before the High Court under this section shall be in the discretion of the High Court and the High Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose aforesaid.

(4) The High Court may, by interim order, direct that the salvor shall be paid such amount as may appear to it to be fair and just, upon such terms, including terms as to security, as may appear to it to be necessary, fair and just, according to the circumstances of each case.

Extinguishment  
of claims.

**236.** Any action relating to payment under this Chapter shall extinguish if no action for such claim is made within a period of two years from the date of completion of salvage operations.

Savings.

**237.** Nothing in this Chapter shall affect,—

(a) any treaty or arrangement with any foreign country to which India is a party with reference to the disposal of the proceeds of wrecks on their respective coasts; or

(b) the provisions of section 29 of the Indian Ports Act, 1908, or any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section. 15 of 1908.

Power to make  
rules respecting  
wreck and  
salvage.

**238.** (1) The Central Government may make rules to carry out the provisions of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner of marking wreck under clause (a) of sub-section (2) of section 216;
- (b) the time-limit to remove the wreck under sub-section (5) of section 220;
- (c) the other financial security under sub-section (1) of section 222;
- (d) the measures to be taken to protect the coastline or related interests from pollution or threat of pollution under sub-section (1) of section 233;
- (e) the criteria for claiming rewards, the manner of fixing rewards, the payment of special compensation, the apportionment of payment amongst salvors, the salvage of persons, the payment under the contract, the payment for additional services not covered under the contract and the effect of misconduct of salvors on reward or payment under sub-section (2) of section 234;
- (f) any other matter which is required to be or may be prescribed.

## PART XII

### CONTROL OF INDIAN VESSELS AND FOREIGN VESSELS ENGAGED IN COASTING TRADE

**239.** This Part shall apply to all vessels including vessels other than Indian vessel.

Application of  
this Part.

**240.** (1) No vessel, other than a vessel registered under this Act shall engage in the coasting trade of India or exploration, exploitation or research in the coastal waters of India except under a licence granted by the Director-General under sub-section (4).

Licensing of  
vessels.

(2) No other vessel chartered by a citizen of India or a company or a co-operative society other than vessel registered under this Act shall be taken to sea from a port or place within or outside India except under a licence granted by the Director-General under this section.

(3) An Indian controlled tonnage vessel may be granted a licence under this section subject to such conditions as may be specified by the Director-General.

(4) A licence granted under this section may be—

- (a) a general licence;
- (b) a licence for the whole or any part of the coasting trade of India; or
- (c) a licence for a specified period or voyage.

(5) A licence granted under sub-section (4), shall be in such form and shall be valid for such period as may be prescribed, and shall be subject to such conditions as may be specified by the Director-General:

Provided that the Central Government, if it is of the opinion that it is necessary or expedient in the public interest so to do, it may, by a general or special order, exempt any class of vessels from the provisions of this section.

**241.** (1) The Director-General may, at any time if the circumstances of the case so require, revoke or modify a licence granted under section 240.

Revocation,  
modification  
or surrender  
of licence.

(2) No licence shall be revoked or modified under this section unless the person concerned has been given a reasonable opportunity of making a representation against such revocation or modification, as the case may be.

(3) When a licence granted under section 240 ceases to be valid, the person to whom it was granted shall, without unreasonable delay, return it or causes it to be returned to the Director-General.

No port clearance until licence is produced.

Power to give direction.

**242.** No proper officer shall grant a port clearance to a vessel not registered under this Act in respect of which a licence is required under this Part, until after the production of such a licence by the owner, master or agent of such vessel.

**243.** (1) The Director-General may, if he is satisfied that in the public interest or in the interests of Indian shipping it is necessary so to do, give, by order in writing, such directions as he thinks fit,—

(a) in the case of a vessel which has been granted a licence under section 240, with respect to all or any of the following matters, namely:—

(i) the ports or places, whether in or outside India, to which, and the routes by which, the vessel shall proceed for any particular purpose;

(ii) the diversion of any vessel from one route to another for any particular purpose;

(iii) the classes of passengers or cargo which may be carried in the vessel;

(iv) the order of priority in which passengers or cargo may be taken on or put off the vessel at any port or place, whether in or outside India;

(b) in the case of a vessel which has been granted a licence under section 240 with respect to the order of priority in which passengers or cargo may be taken on the vessel at any port or place in India from which she is about to proceed for any port or place in India at which she is to call in the course of her voyage.

(2) The Director-General may, by notice, require,—

(a) the owner, master or agent of any vessel in respect of which a licence granted under section 240; or

(b) the owner, master or agent of any vessel in respect of which any directions have been or may be given under clause (b) of sub-section (1), to furnish within the period specified in the notice the information as to—

(i) the classes of passengers and cargo which the vessel is about to carry or is capable of carrying or has carried during any specified period;

(ii) any other matter which may be prescribed.

(3) Notwithstanding anything contained in any other law for the time being in force, the Central Government may, in public interest, by an order in writing, give such directions as it may deem appropriate to ban any vessel from entering any port, anchorage or offshore facility in India.

Powers of Central Government to protect interests of Indian shipping from undue foreign intervention.

**244.** (1) If it appears to the Central Government,—

(a) that measures have been taken by or under the law of any foreign country for regulating or controlling the terms or conditions upon which goods or passengers may be carried by sea, or the terms or conditions of contracts or arrangements relating to such carriage; and

(b) that such measures, in so far as they apply to things done or, to be done outside the territorial jurisdiction of that country by persons carrying on lawful business in India, constitute an infringement of the jurisdiction which belongs to India, it may, by an order in writing, direct that this section shall apply to those measures either in whole or to such extent as may be specified in the order.

(2) Where an order issued under sub-section (1) is in force in relation to any measures, it shall be the duty of every person in India who carries on business consisting or comprising of the carriage of goods or passengers by sea to give notice to the Central Government of any requirement or prohibition imposed or threatened to be imposed on him pursuant to such measures so far as this section applies to him, including any requirement to submit any contract or other document for approval thereunder.

(3) Where a notice under sub-section (2) is received from any person or there are grounds to believe that a notice is likely to be received, the Central Government may, by an order in writing, give to such person directions prohibiting compliance with any such requirement or prohibition as it considers proper for maintaining the jurisdiction of India.

(4) If it appears to the Central Government that any person in India has been or may be required to produce or furnish to any court, or authority of a foreign country any commercial document which is not within the territorial jurisdiction of that country or any commercial information to be compiled from documents not within the territorial jurisdiction of that country and that the requirement constitutes or may constitute an infringement of the jurisdiction which belongs to India, the Central Government may, by an order in writing, give directions to that person, prohibiting him from complying with the requirement except to such extent or subject to such conditions as may be specified in that order.

**245.** (1) The Central Government may make rules to carry out the provisions of this Part.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of licence and the valid period of such licence under sub-section (5) of section 240;

(b) any other matters under sub-clause (ii) of clause (b) of sub-section (2) of section 243;

(c) any other matter which is required to be or may be prescribed.

### PART XIII

#### SAILING, FISHING AND OTHER VESSELS

**246.** (1) Save as otherwise provided, this Part shall apply to vessels of the following description, namely:—

Application of Part.

(a) sailing vessel;

(b) fishing vessel;

(c) vessel without mechanical means of propulsion;

(d) vessel whose net tonnage is less than fifteen and is engaged solely in coasting trade of India.

*Explanation.*—For the purposes of this section, the words "net tonnage" means the measure of the useful capacity of a vessel determined in accordance with the rules made in this behalf.

(2) The provisions of this Act, other than those contained in Part I, Part II, Part III, Part X, Part XIV and this Part, shall not apply to vessels under sub-section (1):

Provided that the Central Government may, by notification direct that any other provisions of this Act shall also apply to such vessels subject to such conditions, exceptions and modifications as may be specified in the notification.

**247.** If any question arises whether a vessel falls under this Part, it shall be decided by the Director-General and his decision thereon shall be final.

Decision on whether a vessel falls under this Part.

**248.** (1) Every vessel covered under this Part shall be manned and carry on board such fittings, material, appliances and apparatus, for safety, security and prevention of pollution as may be prescribed.

Requirements for safety, security, prevention of pollution and insurance.

(2) Every owner of the vessel covered under this Part shall provide a policy of insurance for all persons employed as members of the crew of such vessel against death or

personal injury caused by accident arising in the course of their employment, for an amount which shall not be less than the amount as may be notified.

(3) No vessel shall ply or proceed to sea unless it complies with the provisions under sub-sections (1) and (2).

Vessel not to proceed without valid certificates.

**249.** (1) No vessel shall ply or proceed to sea unless there is in force in respect of that vessel prescribed certificates granted under this Part, the same being applicable to the voyage on which she is about to ply or proceed.

(2) Every certificate shall be granted in such manner and shall be in force for such period as may be prescribed:

Provided that where a vessel is not at a port at the time of expiry of the certificate, the owner, master, tindal or skipper of that vessel shall inform to the Central Government and the certificate shall continue to be valid until her first arrival at the next port after the expiry of such period.

Statement relating to crew of vessels to be maintained.

**250.** (1) Every owner, master or tindal or skipper of a vessel shall maintain or cause to be maintained a statement of the crew of the vessel containing with respect to each member thereof in such form as may be prescribed, namely:—

(a) his name;

(b) the wages payable to him;

(c) the names and addresses of his next-of-kin;

(d) the date of commencement of his employment; and

(e) such other particulars as may be prescribed.

(2) Every change in the crew of the vessel shall be entered in the statement under sub-section (1).

(3) A copy of such statement and of every change entered therein shall be communicated as soon as possible to the shipping master.

Inquiry to jettisoning of cargo.

**251.** (1) If any owner, master or tindal or skipper of a vessel in the course of her voyage, has jettisoned or claims to have jettisoned the whole or any part of the cargo of the vessel on account of abnormal weather conditions or for any other reason, he shall immediately after arrival of the vessel at any port or place in India give notice of such jettisoning to the proper officer, and such notice shall contain full particulars of the cargo jettisoned and the circumstances under which such jettisoning took place.

(2) Where the proper officer receives the notice under sub-section (1), he shall forthwith report in writing to the Central Government and may proceed to make an inquiry into the matter.

Detention of vessel by proper officer.

**252.** (1) Any vessel attempting to ply or proceed to sea without free board markings or any vessel which has been so loaded as to submerge such markings or carrying persons in excess of the certified capacity, may be detained by a proper officer until the vessel complies with the rules made in this behalf.

(2) Except otherwise provided, for the purposes of this Part, a proper officer may, at any reasonable time, go on board a vessel, and may inspect or audit the vessel, and any part thereof, the structure, equipment, fittings, arrangements, materials, systems, scantlings, cargo, provisions, stores, her certificates, and certificates of the crew on board:

Provided that the proper officer shall not unreasonably hinder the operation of the vessel, or unreasonably detain or delay her from proceeding on any voyage.

(3) The owner, agent, master or every officer of the vessel shall afford to the proper officer all reasonable facilities for a survey or audit, and provide all such information in

respect of the vessel and her structure, equipment, fittings, arrangements, materials, scantlings, systems, cargo, provisions, stores, her certificates, and certificates of the crew, as the proper officer reasonably requires.

**253.** (1) If any vessel under this Part, arrives in or proceeds from a port or place in India in an unseaworthy condition or which is likely to pose a threat to the security on Indian coasts or offshore installations, the vessel may be detained until the owner, master or tindal or skipper takes all reasonable measures to ensure the seaworthiness of the vessel.

Detention of unseaworthy vessels.

(2) Nothing contained in sub-section (1) shall affect the liability of the person in charge of the vessel in respect of such unseaworthiness or threat to the security on Indian coasts or offshore installations under any other provisions of this Act.

**254.** (1) Notwithstanding anything contained in this Part, the Central Government may, by order in writing and upon such conditions, if any, as it may think fit to impose, exempt any vessel or tindal, skipper or member of crew of such vessel or any class thereof, from any specified requirement contained in or prescribed in pursuance of this Act or dispense with the observance of any such requirement in the case of any vessel or tindal, skipper or member of crew of such vessel or any class thereof if it is satisfied that the requirement has been substantially complied with or that compliance with the requirement is or ought to be dispensed with in the circumstances of the case.

Power to exempt.

(2) Where an exemption is granted under sub-section (1) subject to any conditions, a breach of any of those conditions shall, without prejudice to any other remedy, be deemed to be an offence under this sub-section.

**255.** (1) The Central Government may make rules to carry out the provisions of this Part.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the scale of manning and fittings, material, appliances and apparatus to be carried on board by Indian vessel under sub-section (1) of section 248;

(b) the certificates required to ply or proceed to sea by a vessel under sub-section (1) of section 249;

(c) the manner of granting of certificate and the period of said certificate under sub-section (2) of section 249;

(d) the form for maintaining a statement of the crew of the vessel under sub-section (1) of section 250;

(e) any other matter which is required to be or may be prescribed.

## PART XIV

### PENALTIES AND PROCEDURES

**256.** (1) Any person who contravenes any provision of this Act or fails to comply with any provision thereof, which it was his duty to comply with, shall be guilty of an offence committed under this Act.

Penalties.

(2) The offences mentioned in column (2) of the Table below shall be punishable to the extent mentioned in column (4) of the said Table with reference to such offence respectively.

(3) Any person who contravenes any provision of this Act or fails to comply with any provision thereof, which it was his duty to comply with, shall be guilty of an offence, and if in respect of any such offence, no penalty is specially provided in sub-section (2), he shall be punishable with fine which may extend to fifty thousand rupees.

(4) The Principal Officer may, after giving the parties an opportunity of being heard, by order in writing, impose penalties as specified in column (4) of the said Table.

(5) Any person aggrieved by the order under sub-section (4), may, within a period of thirty days from the date of receipt of such order, prefer an appeal before the Director-General in such form and manner as the Central Government may specify in this behalf.

(6) The Director-General may, after giving the parties an opportunity of being heard, within a period of thirty days from the date of receipt of the order under sub-section (5), pass appropriate order which shall be final and binding on all parties.

TABLE

Serial No.	Offences	Section of this Act to which offence has referred	Penalties	By whom the offence triable and penalties imposed
(1)	(2)	(3)	(4)	(5)
1.	If any person causes a vessel to proceed to sea in contravention of sub-section (1) of section 14.	14(1)	Imprisonment which may extend to six months or fine which may extend to two lakh rupees, or both.	Court
2.	If the owner of an Indian vessel fails to comply with, or contravenes, sub-section (1) of section 17.	17(1)	Fine which may extend to fifty thousand rupees.	Principal Officer
3.	If any person contravenes sub-section (2) of section 20.	20(2)	Fine which may extend to fifty thousand rupees.	Principal Officer
4.	If the owner fails to deliver the certificate of registry to the Registrar as required under section 22.	22	Fine which may extend to fifty thousand rupees.	Principal Officer
5.	If any person contravenes sub-section (1) of section 24.	24(1)	Fine which may extend to one lakh rupees.	Principal Officer
6.	If an owner fails to make an application for registering a new vessel or for registering an alteration of a vessel under section 35.	35	Fine which may extend to fifty thousand rupees; and in addition, a fine which may extend to two thousand rupees for everyday during which the offence continues after conviction.	Principal Officer

(1)	(2)	(3)	(4)	(5)
7.	If any distinctive national colours except those declared under sub-section (1) of section 40 are hoisted on board by Indian vessel.	40(1)	Fine which may extend to two lakh rupees.	Principal Officer
8.	If any person acts in contravention of sub-section (2) of section 40.	40(2)	Fine which may extend to fifty thousand rupees.	Principal Officer
9.	If any person contravenes sub-section (4) of section 40.	40(4)	Imprisonment which may extend to two years, or fine which may extend to two lakh rupees, or both.	Court
10.	If an owner or a master of an Indian vessel contravenes section 41.	41	Imprisonment which may extend to two years, or fine which may extend to two lakh rupees, or both.	Court
11.	If any person in the case of any declaration made in the presence of, or produced to, Registrar under Part IV or in any document or other evidence produced to such Registrar—  (i) wilfully makes or assists in making or procures to be made, any false statement concerning the title to or owner vessel of or the interest existing in any vessel or any share in a vessel; or  (ii) utters, produces or makes use of any declaration or document containing any such false statement knowing the same to be false.	General	Imprisonment which may extend to six months, or fine which may extend to two lakh rupees, or both.	Court
12.	If the Indian charterer fails to inform the Registrar under sub-section (7) of section 49.	49(7)	Fine which may extend to two lakh rupees.	Principal Officer
13.	If any person having been engaged as one of the officers referred to in sub-section (2) of section 51 goes to sea as such officer without holding a certificate referred to in sub-section (2) of that section.	51(2)	Imprisonment which may extend to six months or fine which may extend to two lakh rupees, or both.	Court

(1)	(2)	(3)	(4)	(5)
14.	If any person conducts training course in contravention of sub-section (2) of section 53.	53(2)	Imprisonment which may extend to two years, or fine which may extend to twenty lakhs rupees, or both.	Court
15.	If any person obstructs authorised person under sub-section (3) of section 53.	53(3)	Fine which may extend to two lakh rupees.	Principal Officer
16.	If any person causes a vessel or fishing vessel to proceed to sea without the required certificate personnel.	General	Imprisonment which may extend to six months or fine which may extend to two lakh rupees, or both.	Court
17.	If a master fails to comply with the requirement under sub-section (1) of section 55.	55(1)	Fine which may extend to fifty thousand rupees and in addition, a fine which may extend to five thousand rupees for everyday during which the offence continues after conviction.	Principal Officer
18.	If any person contravenes sub-section (4) of section 63.	63(4)	Fine which may extend to two lakh rupees.	Principal Officer
19.	If any person contravenes sub-section (2) of section 66.	66(2)	Imprisonment which may extend to one year or fine which may extend to five lakh rupees, or both.	Court
20.	If any person contravenes sub-section (3) of section 66.	66(3)	Fine which may extend to two lakh rupees, for every seafarer engaged in contravention to section 66 (3).	Principal Officer
21.	If any person,— (i) is carried sea to work in contravention of sub-section (5) of section 66, or  (ii) is engaged to work in any capacity in a vessel in contravention of sub-section (5) of section 66 on a false representation by his parent or guardian that the young person is of an age at which such engagement is not in contravention of that section.	66(5)	Fine which may extend to two lakh rupees for every seafarer engaged in contravention to section 66 (5).  Fine which may extend to fifty thousand rupees for every seafarer engaged in contravention to section 66 (5).	Principal Officer  Principal Officer

(1)	(2)	(3)	(4)	(5)
22.	If any person contravenes sub-section (6) of section 66.	66(6)	Fine which may extend to two lakh rupees for every seafarer engaged in contravention to section 66 (6).	Principal Officer
23.	If any person contravenes sub-section (7) of section 66.	66(7)	Fine which may extend to two lakh rupees for every seafarer engaged in contravention to section 66 (7).	Principal Officer
24.	If any person contravenes sub-section (8) of section 66.	66(8)	Fine which may extend to two lakh rupees for every seafarer in respect of whom the offence is committed.	Principal Officer
25.	If any person contravenes of sub-section (9) of section 66.	66(9)	Fine which may extend to two lakh rupees for every offence.	Principal Officer
26.	If a master, owner or his agent carries any seafarer to sea in contravention of sub-section (1) of section 67.	67(1)	Fine which may extend to fifty thousand rupees for every seafarer in respect of whom the offence is committed.	Principal Officer
27.	If any person,—  (a) forges or fraudulently alters any certificate of discharge or a certificate as to the work of a seafarer or a continuous discharge certificate or a copy of any such certificate; or  (b) fraudulently uses any certificate of discharge or a certificate as to the work of a seafarer or a continuous discharge certificate or a copy of any such certificate which is forged or altered or does not belong to him.	General	Imprisonment which may extend to six months or fine which may extend to two lakh rupees, or both.	Court
28.	If a master or owner acts in contravention of sub-section (2) of section 73.	73(2)	Fine which may extend to one lakh rupees.	Principal Officer
29.	If any master acts in contravention of sub-section (5) of section 73.	73(5)	Fine which may extend to fifty thousand rupees.	Principal Officer

(1)	(2)	(3)	(4)	(5)
30.	If a master fails to comply with the provisions of this Act with respect to taking charge of the property or to making in the official logbook the proper entries relating thereto or to the payment or delivery of such property as required under section 74.	74	Fine which may extend to three times the value of the property not accounted for or if such value is not ascertained, to twenty thousand rupees.	Officer
31.	If any person fails, without reasonable cause, to comply with any requisition under section 78.	78	Fine which may extend to twenty five thousand rupees.	Principal Officer
32.	If any person commits a breach of any term of any award which is binding on him under sub-section (9) of section 83.	83(9)	Imprisonment which may extend to one month, or fine which may extend to two lakh rupees, or both.	Court
33.	If a seafarer contravenes clause (a), or an owner contravenes clause (b), of sub-section (14) of section 83.	83(14)(a); 83(14)(b)	Imprisonment which may extend to one month, or fine which may extend to fifty thousand rupees, or both.	Court
34.	(a) If any requirement under section 88 is not complied within the case of any vessel; or  (b) if any person obstruct the shipping master, survey or seafarer welfare officer, Indian consular officer or any other officer at any port in the discharge of his duty under section 88.	88	Fine which may extend to fifty thousand rupees unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default;  Fine which may extend to fifty thousand rupees unless he can prove that the obstruction was caused without his knowledge or connivance.	Principal Officer  Principal Officer
35.	If a master fails, without reasonable cause, to comply with section 90.	90	Fine which may extend to fifty thousand rupees.	Principal Officer
36.	If any person goes on board a vessel contrary to section 92.	92	Fine which may extend to fifty thousand rupees.	Principal Officer
37.	If a master or seafarer contravenes section 93.	93	Imprisonment which may extend to two years or fine which may extend	Court

(1)	(2)	(3)	(4)	(5)
			to five lakh rupees.	
38.	If a seafarer,—	94(1)(a)	He shall be liable to	
Principal	(a) deserts his vessel under clause (a) of sub-section (1) of section 94;		forfeit all or any part of the property leaves on board and of the wages has then earned and also if the desertion takes place at any place not in India, to forfeit all or any part of the wages which earn in any other vessel in which employed until next return to India, and to satisfy any excess of wages paid by the master or owner of the vessel from which deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him.	Officer
	(b) contravenes clause (b) of sub-section (1) of section 94 .	94 (1) (b)	He shall, if the contravention does not amount to desertion, be liable to forfeit out of his wages a sum not exceeding two days pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute.	Principal Officer
39.	If a seafarer is guilty of the offence specified in,—			
	(i) clause (a) of section 95;	95(a)	Forfeiture out of his wages of a sum not exceeding one month's pay;	Principal Officer
	(ii) clause (b) of section 95;	95(b)	Forfeiture out of his wages of a sum not	Principal Officer

(1)	(2)	(3)	(4)	(5)
			exceeding two days' pay;	
	(iii) clause (c) of section 95;	95(c)	Imprisonment which may extend to one month and also for every twenty-four hours of continuance of such disobedience or neglect, forfeiture out of his wages of a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute;	Court
	(iv) clauses (d) and (e) of section 95;	95(d) and 95(e)	Imprisonment which may extend to three months, or fine of fifty thousand rupees which may extend to one month's pay or both;	Court
	(v) clause (f) of section 95;	95(f)	Forfeiture out of his wages of a sum equal to the loss sustained and also imprisonment which may extend to three months;	Court
	(vi) clause (g) of section 95.	95(g)	Fine which may extend to one lakh rupees but nothing herein shall take away or limit any other remedy which any person would otherwise have for breach of contract or refund of money advanced or otherwise.	Principal Officer
40.	If any master fails to comply with section 98.	98	Fine which may extend to one lakh rupees, or both.	Principal Officer
41.	If a seafarer on or before being engaged wilfully and fraudulently makes a false statement of the name of his last vessel or alleged last vessel or wilfully and fraudulently makes a false statement of his own name.	General	Fine which may extend to fifty thousand rupees.	Principal Officer
42.	If any person contravenes,—			

(1)	(2)	(3)	(4)	(5)
Principal	(a) sub-section (1) of section 104;	104 (1)	Fine which may extend to two lakh rupees.	Officer
Principal	(b) sub-section (2) of section 104.	104(2)	Fine which may extend to two lakh rupees.	Officer
43.	If any person goes to sea in a vessel contrary to sub-section (1) of section 105.	105(1)	Imprisonment which may extend to one month, or fine which may extend to one lakh rupees, or both.	Court
44.	If a master fails to deliver the documents referred to in sub-section (1) of section 106.	106	Fine which may extend to fifty thousand rupees.	Principal Officer
45.	If any person harbours or secretes any deserter knowing or having reason to believe that he has deserted.	General	Fine which may extend to fifty thousand rupees.	Principal Officer
46.	If any person wilfully destroys or mutilates or renders illegible any entry in any official logbook or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official logbook.	General	Imprisonment which may extend to one year.	Court
47.	If the vessel contravenes section 112.	112	The owner or master of the vessel shall be liable to fine which may extend to fifteen lakh rupees and the vessel may also be detained.	Principal Officer
48.	If the master fails, without reasonable cause,—			
	(a) to comply with sub-section (1) of section 113;	113(1)	Fine which may extend to fifty thousand rupees.	Principal Officer
	(b) to comply with sub-section (2) of section 113.	113(2)	Fine which may extend to two lakh rupees.	Principal Officer
49.	If any person contravenes section 116.	116	Fine which may extend to fifteen lakh rupees and the vessel may also be detained.	Principal Officer
50.	If any vessel proceeds or	117	The master of the vessel	Principal

(1)	(2)	(3)	(4)	(5)
	attempts to proceed to sea without carrying on board the information required by section 117.		shall be liable to fine which may extend to one lakh rupees.	Officer
51. Principal	If an vessel other than a vessel exempted under Part VI is loaded in contravention of sub-section (1) of section 118.	118(1)	<p>The master or owner of the vessel shall be liable to fine which may extend to four lakh rupees and to such additional fine not exceeding twenty-five thousand rupees for every inch or fraction of an inch by which the appropriate load lines on each side of the vessel are submerged or would have been submerged if the vessel had been in salt waters and had no list, as the principal officer thinks fit to impose, having regard to the extent to which the earning capacity of the vessel is or would have been increased by reason of the submersion:</p> <p>Provided that it shall be a good defence for the master or owner to prove that a contravention was due solely to deviation or delay caused solely by stress of whether or other circumstance which neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.</p>	Officer
52.	If a vessel carries passengers in contravention of section 119.	119	The owner or master shall be liable to fine which may extend to two lakh rupees.	Principal Officer
53.	If the master owner or agent of a special general trade passenger vessel, after having obtained any of the certificates referred to in Part VI, fraudulently does or suffers to be done anything whereby the certificate	General	Imprisonment for a term which may extend to six months, or fine which may extend to fifty thousand rupees, or both.	Court

(1)	(2)	(3)	(4)	(5)
	becomes inapplicable to the altered state of the vessel, or special trade passengers other matters to which the certificate relates.			
54.	If any person contravenes section 120.	120	Fine which may extend to fifteen lakh rupees and the vessel may also be detained.	Principal Officer
55.	If any person is guilty of an offence under sub-section (1) of section 121.	121(1)	Fine which may extend fifty thousand rupees.	Court
56.	If any person is guilty of an offence under sub-section (1) or sub-section (2) of section 122.	122(1) or 122(2)	Imprisonment which may extend to six months, or fine which may extend to two lakhs rupees, or both.	Court
57.	If a person sends or attempts to send a vessel in contravention of section 123.	123	Imprisonment which may extend to one year, or fine which may extend to two lakhs rupees, or both.	Court
58.	If any owner causes a vessel to proceed to sea in unseaworthy condition in contravention of section 124.	124	Imprisonment which may extend to one year, or fine which may extend to two lakhs rupees, or both.	Court
59.	If oil or oily mixture or any other polluting substance is discharged in contravention of section 131,—	131		
	(a) where such discharge is made from an Indian tanker anywhere into the sea;	131	Imprisonment which may extend to six months and the owner or master of the tanker shall be liable to fine which may extend to twenty-five lakh rupees.	Court
	(b) where such discharge is made from foreign tanker anywhere within the coastal waters of India.	131	Fine which may extend to twenty-five lakh rupees.	Principal Officer
60.	If any person contravenes section 133.	133	Fine which may extend to fifteen lakh rupees and the vessel may also be	Principal Officer

(1)	(2)	(3)	(4)	(5)
			detained.	
61.	If the master of a vessel Principal fails to maintain records as required by section 134 or contravenes any rule made under that section.	134	Fine which may extend to fifty thousand rupees.	Officer
62.	If the master of an Indian vessel or any person fails to comply with the rules made or measure taken under section 136.	136	Fine which may extend to one lakh and fifty thousand rupees.	Principal Officer
63.	If owner of any Indian vessel, fails to comply with any order issued under section 137.	137	The offender shall be liable to penalty of imprisonment which may extend to six months or fine which may extend to five lakh rupees, or both and if the offence is a continuing one, the offender shall be liable to a further fine which may extend to fifty thousand rupees per day for every day during which the offence continues after conviction.	Court
64.	If any person fails to posses the certificates as required under section 140.	140	Fine which may extend to fifteen lakh rupees and the vessel may also be detained.	Principal Officer
65.	If the master of a ship contravenes sub- section (1) of section 193.	193	Fine which may extend to fifteen lakh rupees and the vessel may also be detained.	Principal Officer
66.	If any person fails to give notice under sub- section (2) of section 207.	207(2)	Fine which may extend to fifty thousand rupees and in default of payments, simple imprisonment which may extend to three months.	Court
67.	If any person fails to report under sub-section (1) or sub-section (2) or sub-section (3) of section 214.	214(1); 214(2); 214(3).	Fine which may extend to fifty thousand rupees and in default of payments, simple imprisonment which may extend to three months.	Court
68.	If any person contravenes sub-section (2) of section 216.	216(2)	Fine which may extend to two lakh rupees and in default of payment, simple	Court

(1)	(2)	(3)	(4)	(5)
			imprisonment which may extend to six months.	
69.	If any person contravenes sub-section (1) or sub-section (2) of section 240.	240(1) or 240(2)	Imprisonment which may extend to six months, or fine which may extend to ten lakh rupees, or both and the vessel may also be detained.	Court
70. Principal	If any person to whom a licence under sub-section (1) or sub-section (2) of section 240 has been granted fails to comply with the conditions under sub-section (5) of section 240.	240(5)	Fine which may extend to five lakh rupees and the vessel may also be detained.	Officer
71.	(a) If any directions given under sub-section (1) of section 243 are not complied with; or (b) if the owner, master or agent on whom a notice has been served under sub-section (2) of section 243 fails to furnish the information required within the time specified or furnishing the information makes any statement which he knows to be false on any material particular.	243(1)  243(2)	Imprisonment which may extend to six months, or fine which may extend to fifty thousand rupees, or both.  Imprisonment which may extend to six months, or fine which may extend to fifty thousand rupees, or both.	Court  Court
72.	If any person contravenes sub-section (3) of section 244.	244(3)	Imprisonment which may extend to six months, or fine which may extend to fifty thousand rupees, or both.	Court
73.	If an owner contravenes sub-section (2) of section 248.	248(2)	Fine which may extend to one lakh rupees and the vessel may also be detained.	Principal Officer
74.	If any person contravenes sub-section (1) of section 249.	249(1)	Fine which may extend to one lakh rupees and the vessel may also be detained.	Principal Officer
75.	If the owner, master, tindal or skipper fails to comply with sub-section (1) of section 250.	250(1)	Fine which may extend to fifty thousand rupees.	Principal Officer
76.	If the owner, master, tindal	251(1)	Imprisonment which may	Court

(1)	(2)	(3)	(4)	(5)
	or skipper fails to comply with sub-section (1) of section 251.		extend to three months, or fine which may extend to fifty thousand rupees, or both.	
77.	(a) If any person is guilty of an offence under sub-section (2) of section 263.	263(2)	Imprisonment which may extend to six months, or fine which may extend to two lakh rupees, or both.	Court
	(b) If the owner, master or his agent of vessel is guilty of an offence under sub-section (3) of section 263.	263(3)	Fine which may extend to two lakh rupees.	Court
78.	If any person acts in contravention of sub-section (2) of section 270.	270(2)	Fine which may extend to fifty thousand rupees.	Principal Officer
79.	If any person contravenes security measures under sub-section (2) of section 272.	272(2)	Fine which may extend to five lakh rupees and the vessel may also be detained.	Principal Officer
80.	If any person is guilty of an offence under sub-section (2) of section 274.	274(2)	Fine which may extend to one lakh rupees.	Principal Officer
81.	If any vessel is detained under the provisions of this Act for which no fine is provided.	General	Fine which may extend to fifteen lakh rupees.	Principal Officer

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Cognizance of offence.

**257.** Any person committing any offence under this Act or any rules made thereunder, may be tried for such offence before any place in which he may be found, or in any Court which the Central Government may, by notification, direct in this behalf, or in any Court in which he might be tried in any other law for time being in force.

Offences by companies.

**258.** Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorised by or under this Act on any person convicted of an offence under this Act or any rules made thereunder.

**259.** The penalties to which the masters or owners of special trade passenger vessels are made liable by section 256 shall be enforced only on a report made by the proper officer in this behalf.

**260. (1)** If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of its business, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of any

director, manager, secretary, or any other officer of the company, such director, manager, secretary, or other officer shall also be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*— For the purposes of this section,—

(a) "company" includes a co-operative society, a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

**261.** (1) Whenever, in the course of any legal proceeding under this Act instituted at any place in India before any court or Metropolitan Magistrate or a Judicial Magistrate of the first class or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused, as the case may be, after being allowed a reasonable opportunity for so doing, does not produce the witness before any court or Metropolitan Magistrate or a Judicial Magistrate of the first class or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any court or Metropolitan Magistrate or a Judicial Magistrate of the first class in any other place in India or, if elsewhere, before any Indian consular officer, shall be admissible in evidence,—

(a) if the deposition is authenticated by the signature of the presiding officer of any court or Metropolitan Magistrate or a Judicial Magistrate of the first class or consular officer, before whom it is made;

(b) if the defendant or the person accused had an opportunity by himself or has agent of cross-examining the witness;

(c) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed such deposition, and a certificate by such person that the defendant or person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is approved, be sufficient evidence that he had that opportunity and that it was so made.

**262.** (1) Whenever any damage has in any part of the world been caused to property belonging to the Government or to any citizen of India or a company by a vessel other than an Indian vessel and at any time thereafter that vessel is found within Indian jurisdiction, the High Court may, upon the application of any person who alleges that the damage was caused by the misconduct or want of skill of the master or any member of the crew of the vessel, issue an order directed to any proper officer or other officer named in the order requiring him to detain the vessel until such time as the owner, master or coassignee thereof has satisfied any claim in respect of the damage or has given security to the satisfaction of the High Court to pay all costs and damages that may be awarded in any legal proceeding that may be instituted in respect of the damage, and any officer to whom the order is directed shall detain the vessel accordingly.

(2) Whenever it appears that before an application can be made under this section, the vessel in respect of which the applications to be made will have departed from India or the territorial waters of India, any proper officer may detain the vessel for such time as to allow the application to be made and the result thereof to be communicated to the officer detaining the vessel, and that officer shall not be liable for any cost or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3) In any legal proceedings in relation to any such damage aforesaid, the person giving security shall be made a defendant and shall for the purposes of such proceeding be

Depositions to be received in evidence when witness cannot be produced.

Power to detain foreign vessel that has occasioned damage.

Power to enforce detention of vessel.

deemed to be the owner of the vessel that has occasioned the damage.

**263.** (1) Where under this Act a vessel is authorised or ordered to be detained, any commissioned officer of the Indian Navy or Indian Coast Guard or any port officer, pilot, harbour master, conservator of port or customs collector may detain the vessel under instruction of the proper officer.

(2) If any vessel after detention or after service on the master for any notice of, or order for, such detention proceeds to sea before she is released by any competent authority, the master of the vessel shall be guilty of an offence under this sub-section.

(3) When a vessel so proceeding to sea takes to sea, when on board thereof in the execution of his duty any person authorised under this Act to detain or survey the vessel, the owner, master or agent of such vessel shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea and shall also be guilty of an offence under this sub-section.

Levy of wages, etc., by distress of movable property or vessel.

(4) When any owner, or master or agent is convicted of an offence under sub-section (3), the convicting court or Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, may inquire it and determine the amount payable on account of expenses by such owner, master or agent under that sub-section and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

**264.** (1) When an order under this Act for the payment of any wages or other sums of money is made by any court or Metropolitan Magistrate or a Judicial Magistrate of the first class or other officer or authority, and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the movable property of the person directed to pay the same under a warrant to be issued for that purpose by such a court or Metropolitan Magistrate or a Judicial Magistrate of the first class.

Notice to be given to consular representative of proceedings taken in respect of foreign vessel.

(2) Where any court or Metropolitan Magistrate or a Judicial Magistrate of the first class or other officer or authority has power under this Act to make an order directing payment to be made of any seafarer's wages, fines or other sums of money, then if the person so directed to pay the same is the master, owner or agent of a vessel and the same is not paid at the time or in the manner directed by the order of the court or Metropolitan Magistrate or a Judicial Magistrate of the first class, or other officer or authority may, in addition to any other power it may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the vessel and her equipment.

Service of documents.

**265.** If any vessel other than an Indian vessel is detained under this Act, or if any proceeding is taken under this Act against the master, owner or agent of any such vessel, notice shall forthwith be served on the consular officer of the country in which the vessel is registered, at or nearest to the port where the vessel is for the time being, and such notice shall specify the grounds on which the vessel has been detained or the proceedings have been taken.

**266.** Where, for the purpose of this Act, any document is to be served on any person, that document may be served,—

(a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or by post;

(b) if the document is to be served on the master of a vessel, where there is one, or a person belonging to a vessel, by leaving the same for him on board that vessel, with the person being or appearing to be in command or charge of the vessel; and

(c) if the document is to be served on the master of a vessel where there is no master and the vessel is in India, on the owner of the vessel, or, if such owner is not in

Birth and death of persons on board vessel during a voyage.

India, in some agent of the owner residing in India, or, where no such agent is known or can be found, by serving a copy thereof to the master of the vessel or by affixing at a suitable place on the bridge.

Inquiry into cause of death on board or person missing from Indian vessel.

## PART XV

### MISCELLANEOUS

**267.** The master of any vessel performing a voyage shall, on arrival, at the next port or place of call, intimate the proper officer, the date of any birth or death of any person occurring during the voyage and the cause of death or any other relevant details, as the Central Government may, by order, specify in this behalf.

**268.** (1) If any person dies on board or is missing from an Indian vessel, the master shall forthwith inform to the Director-General, and the proper officer of the port or the next port of call.

Certain persons deemed to be public servants.

(2) On receipt of information under sub-section (1), the proper officer shall enquire into the cause of death and make in the official logbook an endorsement to that effect, either that the statement of the cause of death in the book is in his opinion true, or the contrary according to the result of inquiry.

(3) If, in the course of any such inquiry, it appears to the proper officer that a death has been caused on board the vessel by violence or other improper means, he shall either report the matter to the Director-General or, if the emergency of the case so requires, shall take immediate steps for bringing the offender to trial.

**269.** The following persons shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, namely:—

(a) every surveyor;

(b) every person appointed under this Act to report information as to shipping casualties under Part X;

(c) every person authorised under this Act to make any investigation or inquiry and all persons whom he calls to his aid;

(d) every person directed to make an investigation into an explosion or fire on a vessel; and

(e) every other officer or person appointed under this Act to perform any functions thereunder.

Power of persons authorised to investigate, inquire, etc.

**270.** (1) Every person who is empowered by this Act to make an investigation or inquiry or to board, survey, inspect or detain a vessel,—

(a) may go on board any vessel and inspect the same or any part thereof, or any of the machinery, equipment or articles on board thereof, or any certificate of the master or other officer to which the provisions of this Act or any of the rules made thereunder apply, not unnecessarily detaining or delaying the vessel from proceeding on any voyage, and if in consequence of any incident to the vessel or for any other reason it is considered necessary so to do, may require the vessel to be taken into dock for the purpose of inspection or survey;

(b) may enter and inspect any premises, the entry and inspection of which appears to be requisite for the purpose aforesaid;

(c) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine them for the purpose aforesaid, and may require answers or returns to any enquiries he thinks fit to make;

Power to permit alternative provisions and arrangement.

(d) may require and enforce the production of all relevant books, papers, or documents;

(e) may administer oaths or may in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination; and

Control of Nuclear vessels and security measures.

(f) may muster the crew of any such vessel.

(2) No person shall hinder or obstruct any officer or person referred to in sub-section (1) from going on board any vessel or otherwise impede him in the execution of his duties or the exercise of his powers under this Act.

Exemption of public vessels, foreign and Indian.

**271.** Where this Act requires that provisions or arrangements for a vessel shall meet the obligations under the convention the Central Government may, after satisfying itself based on the convention or its protocol or its amendments or by trials or otherwise, as effective as that so required, by an order, permit such other provisions or arrangements to be used or provided.

Power to exempt.

**272. (1)** No vessel provided with a nuclear power plant shall proceed to any port or place in India including territorial waters thereof without permission of the Central Government.

(2) The Central Government may, by general or special order, issue such direction, as it deems fit, to the registered owners of the vessels, for taking such security measure as may be necessary.

**273.** The Central Government may, by notification, direct that the provisions of this Act or any of them shall not apply to vessels belonging to the Government or to any class of such vessels.

General power to make rules.

**274. (1)** Notwithstanding anything contained in this Act, the Central Government may, by order in writing and upon such conditions, if any, as it may think fit to impose, exempt any vessel or tindal or seafarer or any class thereof, from any specified requirement contained in or prescribed in pursuance of this Act or dispense with the observance of any such requirement in the case of any vessel or tindal or seafarer, or any class thereof if it is satisfied that the requirement has been substantially complied with or that compliance with the requirement is or ought to be dispensed with in the circumstances of the case:

Provisions with respect to rules.

Provided that no exemption which is prohibited by the Safety Convention or Pollution Prevention Convention shall be granted under this sub-section.

(2) Where an exemption is granted under sub-section (1) subject to any conditions, a breach of any of those conditions shall, without prejudice to any other remedy, be deemed to be an offence under this sub-section.

**275.** Without prejudice to any other power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the provisions of this Act.

**276. (1)** All rules made under this Act shall be published in the Official Gazette and shall be subject to the condition of previous publication.

Protection of persons acting under the Act.

(2) In making a rule under this Act, the Central Government may direct that a breach thereof shall be punishable with fine which may extend to fifty thousand rupees, and if the breach is a continuing one, with further fine which may extend to five thousand rupees for every day after the first day during which the breach continues.

Agreement with other countries.  
Removal of difficulties.

(3) Every rule made or notification issued under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made, the rule or notification shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the

validity of anything previously done under that rule or notification.

**277.** No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**278.** The Central Government may enter into agreement with other countries or organisations for effective implementation of the provisions of this Act.

**279. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear it to be necessary for removing the difficulty:

44 of 1958.  
19 of 1838.

Repeal and  
savings.

Provided that no such order shall be made under this section after the expiry of a period of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

## PART XVI

### REPEALS AND SAVINGS

**280. (1)** The Merchant Shipping Act, 1958 and the Coasting Vessels Act, 1838 are hereby repealed.

(2) Notwithstanding the repeal of any enactment by sub-section (1),—

(a) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under any enactment hereby repealed shall, until revoked, have effect as if it had been issued, made or granted under the provisions of this Act;

44 of 1958.

(b) any office established or created, officer appointed and anybody elected or constituted under any enactment hereby repealed shall continue and shall be deemed to have been established, created, appointed, elected, or constituted, as the case may be, under this Act;

44 of 1958.

(c) any document referring to any enactment hereby repealed shall be construed as referring to this Act or to the provision of this Act;

(d) any fine levied under any enactment hereby repealed may be recovered as if it had been levied under this Act;

(e) any offence committed under any enactment hereby repealed may be prosecuted and punished as if it had been committed under this Act;

(f) any vessel registered under the Merchant Shipping Act, 1958 hereby repealed shall be deemed to have been registered under this Act;

(g) any mortgage of vessels recorded in any register book maintained at any port in India under the Merchant Shipping Act, 1958 any enactment hereby repealed shall be deemed to have been recorded in the register book under the corresponding provision of this Act;

(h) any licence, certificate of competency or service, certificate of survey, A or B certificate, safety certificate, qualified safety certificate, safety equipment certificate, exemption certificate, international or Indian loadline certificate or any other certificate or document issued, made or granted under any enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been issued, made or

granted under this Act and shall, unless cancelled under this Act, continue in force until the date shown in the certificate or document, as the case may be;

(i) any proceeding pending before any court under any enactment hereby repealed may be tried or disposed of under the corresponding provisions of this Act;

(j) the officers existing under the commencement of this Act shall continue as if they have been established under this Act;

10 of 1897.

## STATEMENT OF OBJECTS AND REASONS

The Merchant Shipping Act, 1958 has been enacted to foster the development and ensure the efficient maintenance of an Indian mercantile marine in a manner best suited to serve the national interests and for that purpose to establish a National Shipping Board and a Shipping Development Fund, to provide for the registration of Indian ships and generally to amend and consolidate the law relating to merchant shipping. The said Act has been amended several times and now contains more than 560 sections.

2. Internationally, merchant shipping industry has undergone various changes in recent years. In order to meet the new challenges and promote 'Ease of Doing Business', reforms are required to increase tonnage under Indian flag and share of Indian seafarers, safeguard the rights and privileges of seafarers, enhance the safety and security of vessels and life at sea, prevent marine pollution, provide for maritime liabilities and compensations, and to develop Indian coastal shipping and trade, etc.

3. The Coasting Vessels Act, 1838 is a legislation of British era which provides for registration of non-mechanically propelled vessels for a limited jurisdiction of Saurashtra and Kutch. As it has been decided to bring the registration of all seagoing vessels under the law of Merchant Shipping, the Coasting Vessels Act, 1838 will become redundant.

4. In order to ensure that old and redundant provisions of the laws are replaced with contemporaneous provisions, it has been decided to consolidate and amend the laws relating to merchant shipping to ensure compliance with the country's obligation under the International Conventions and maritime treaties to which India is a party and also to ensure the efficient maintenance of Indian mercantile marine in a manner best suited to serve the national interest.

5. In view of the above, it has become imperative to repeal the Merchant Shipping Act, 1958 and the Coasting Vessels Act, 1838 and to provide for contemporaneous, futuristic and dynamic legislation, namely, the Merchant Shipping Bill, 2016 to meet the requirements of India as an emerging economy.

6. The Merchant Shipping Bill, 2016, *inter alia*, seeks to provide for the following, namely:—

(a) to register all seagoing vessels, whether propelled or not, including certain residuary category of vessels not covered under any statute;

(b) to allow substantially-owned vessels and vessels chartered on Bareboat Charter-cum-Demise (BBCD) contract by Indian entities to be registered as Indian flag vessels, to recognise Indian controlled tonnage as a separate category, and dispense with the requirement for issuing licences to Indian flag vessels for coastal operation, so as to facilitate augmentation of Indian tonnage and promotion of coastal shipping;

(c) to simplify and consolidate the regime for survey, inspection and certification of vessels which are scattered in various Parts of the Merchant Shipping Act, 1958 by placing them together, for convenience of the Indian shipping industry;

(d) to monitor the maritime education leading to grant of certificate of competency or certificate of proficiency in accordance with either the provisions of International Convention or otherwise to impart quality education to prospective seafarers, and to facilitate Indian seafarers to work onboard vessels with respective certificate and qualification;

(e) to entitle the seafarers held in captivity of pirates to receive wages till they are released from captivity and reach home safely so as to ensure welfare of seafarers;

(f) to make insurance compulsory for the crew engaged on vessels including fishing, sailing, non-propelled vessels and vessels whose net tonnage is less than fifteen and solely engaged in coasting trade of India, by the owner of the vessel;

(g) to dispense with the requirement of signing of articles of agreement by the crew before the Shipping Master so as to facilitate early employment of seafarers;

(h) to make provisions for security-related aspects with respect to vessels, which will enable identification and ensure coastal security;

(i) to make provisions so as to give effect to seven Conventions of International Maritime Organisation, namely, (i) the Intervention Convention, 1969, (ii) the Search and Rescue Convention, 1979, (iii) the Annex VI to the International Convention on Prevention of Pollution from Ships, (iv) the Convention for Control and Management of Ships Ballast Water and Sediments, 2004, (v) the Nairobi Wreck Removal Convention, 2007, (vi) the Salvage Convention, 1989 and (vii) the International Convention for Bunker Oil Pollution Damage, 2001;

(j) to repeal the Coasting Vessels Act, 1838 and the Merchant Shipping Act, 1958.

7. The Bill seeks to achieve the above objectives.

NEW DELHI;

NITIN GADKARI

*The 5th December, 2016.*

*Notes on clauses*

*Clause 1.*— This clause seeks to provide for short title and commencement of the Bill.

*Clause 2.*—This clause seeks to provide for application of the Bill. It specifies the application of the Bill to the vessels registered, vessels required to be registered and vessels other than preceding two categories. It also specifies the extent of application of the Bill to Indian controlled tonnage vessels.

*Clause 3.*— This clause contains definitions of various expressions used in the Bill. It defines the expressions, *inter alia*, “costs”, “coasting trade of India”, “convention”, “distressed seafarer”, “family”, “Indian controlled tonnage vessel”, “port of registry”, “sailing vessel”, “ship”, “special trade”, “vessel”.

*Clause 4.*—This clause seeks to provide for establishment of the National Shipping Board. It provides for the composition of the Board, consisting of six members of Parliament; sixteen members to be appointed by the Central Government and equal number to be included in the Board representing the ship owners and seafarers; and the term of its members, its power to advise the Central Government.

*Clause 5.*—This clause seeks to provide for the constitution of the Seafarer Welfare Board to advise the Central Government on the measures for promoting the welfare of the seafarers.

*Clause 6.*— This clause empowers the Central Government to appoint a person to be the Director-General of Shipping for the purposes of exercising or discharging the powers, authority or duties conferred on or imposed by under the provisions of the Bill. This clause also empower the Central Government to delegate its power to Director-General and he may with the approval of the Central Government delegate his powers to other officer or authority and the officers appointed under the Bill shall discharge their functions under the general superintendence and control of the Director-General.

*Clause 7.*— This clause empowers the Central Government to appoint Surveyors at such port or place as it may consider necessary. It further empowers the Central Government to authorise any person or body of persons, as surveyor in case of cargo vessel.

*Clause 8.*— This clause seeks to empower the Central Government to appoint Radio Inspectors relating to radio communication.

*Clause 9.*— This clause seeks to empower the Central Government to establish and maintain office of the Mercantile Marine Department at the ports of Mumbai, Kolkata, Chennai, Kochi, Kandla and such other ports or places in India for the administration of the provisions of the Bill and the rules made thereunder. It further provides that the office of the Mercantile Marine Departments at the ports of Mumbai, Kolkata, Chennai, Kochi, Kandla and any other port or place as notified by the Central Government shall be in the charge of the Principal Officer, and the office at any other port or place shall be in the charge of such officer as the Central Government may appoint in this behalf.

*Clause 10.*—This clause empowers the Central Government to establish Shipping office and appoint shipping master and other officers as it may consider necessary. It provides that if at any place such shipping office is not established then either the Mercantile Marine Department, or port officer or any other office may conduct the business of shipping office. It further provides that any act done by Deputy Shipping Master, Assistant Shipping Master or any other officer in shipping office shall have the same effect as if done by the Shipping Master.

*Clause 11.*— This clause seeks to empower the Central Government to establish at every port a seafarer’s employment office and shall appoint thereto a director and as many

Deputy Directors and Assistant Directors as it may consider necessary. It provides that all acts done by Deputy Director or Assistant Director shall have the same effect as if done by the Director himself. It also provides that if at some port, seafarers employment office is not available then at such place the Central Government has power to appoint a person or body of persons to carry out the functions of the Seafarer's Employment Office and such person or body of persons shall be deemed to be Seafarers Employment Office.

*Clause 12.*—This clause seeks to empower the Central Government to appoint Seafarers Welfare Officer in any port or place outside India. It specifies the duties which the Seafarers Welfare Officer needs to perform. It further provides that if any seafarer's welfare officer appointed at any port outside India performs any functions assigned to an Indian consular officer, such functions shall have the same effect as if they had been performed by an Indian consular officer.

*Clause 13.*— This clause seeks to provide for application of Part III of the Bill. It provides for the application of the provisions of Part III to all sea-going vessels for the purposes of registration of vessels.

*Clause 14.*— This clause seeks to impose obligation for registration of every vessel. It provides that every Indian vessel shall be registered under Part III at such port or place of registry as may be notified by the Central Government. It further provides that the vessels registered under the Coasting Vessels Act, 1838, which has been proposed for repeal by this Bill, shall be re-registered under the provisions of this Bill within one year of coming into force of the Bill and the vessels registered under the existing Act shall be deemed to be registered under this Bill. It also provides that all vessels belonging to the Government, other than vessels of the Indian Navy, Indian Coast Guard, Customs Authorities, Central Paramilitary Forces, Coastal Police and other Police Agencies, shall be registered under this Bill.

Sub-clause (2) of this clause enables the registration of an Indian vessel out of India with such conditions as may be made by rules. Sub-clause (3) provides that no vessel shall be an Indian vessel or an Indian controlled tonnage vessel unless such vessel is substantially owned by any of the person specified therein. Sub-clause (4) mandates that Indian vessel proceeding to sea without a valid certificate of registration shall be detained unless it produces such certificate.

*Clause 15.*—This clause seeks to appoint the Registrar of Indian vessels. It provides that at any port, the Principal Officer of the Mercantile Marine Department, shall be the Registrar of Indian vessels at that port, and at any other place in India such authority as the Central Government may, appoint, shall be the Registrar of Indian vessels at that place. It further provides that every Registrar shall keep a register book and shall make entries in that book be made, and maintain the records of vessels registered under this Bill, in such manner as may be provided by rules.

*Clause 16.*— This clause seeks to provide of application of registry. It provides that an application for the registry of an Indian vessel shall be made to the Registrar in such form and manner as may be provided by rules.

*Clause 17.*— This clause seeks to provide for marking, survey and measurement of vessels before registry. It provides that the owner of every Indian vessel in respect of which an application for registry is made shall cause such vessel to be marked, surveyed and measured by a surveyor and the tonnage of the vessel ascertained before the registry in such manner as may be made by rules and the surveyor shall grant a certificate specifying the tonnage and build and such other particulars descriptive of the identity of the vessel as may be provided by rules and the certificate of the surveyor shall be delivered to the Registrar before registry.

*Clause 18.*—This clause seeks to empower the Registrar to inquire into title of an Indian vessel to be registered. It provides that where it appears to the Registrar that there is

any doubt as to the title of any Indian vessel to be registered as an Indian vessel, he may require evidence to be given to his satisfaction that the vessel is entitled to be registered as an Indian vessel and if no evidence is given to the satisfaction of the Registrar, such vessel shall be liable for forfeiture.

*Clause 19.*— This clause seeks to provide for grant of certificate of registry. It provides that on completion of registry, the certificate of registry shall be granted to Indian vessel. It also provides for issuance of tonnage certificate and granting of new certificate of registry in case it is defaced or mutilated or lost or destroyed.

*Clause 20.*— This clause seeks to provide for custody and use of certificate. It provides that the certificate of registry shall be used only for the lawful navigation of the vessel, and shall at all times remain in the custody of the person in charge of the vessel; and shall not be subject to detention by reason of any title, lien, charge or interest whatever had or claimed by any owner, mortgagee or other person to, on or in the vessel and such certificate may be delivered to person entitle to demand the certificate. It further provides the possession of illegal certificate of registry as an offence.

*Clause 21.*— This clause seeks to provide for endorsement on certificate of change of ownership. It provides that whenever a change occurs in the registered ownership of an Indian vessel, the owner of the Indian vessel shall, for the purposes of endorsement of change of ownership, deliver the certificate of registry to the Registrar who shall make an endorsement for that purpose in such manner as may be provided by rules.

*Clause 22.*— This clause seeks to provide for delivery of certificate of vessel lost or ceasing to be an Indian vessel. It provides that in case the vessel is actually or constructively lost, taken by the enemy, burnt or broken up or ceasing for any reason to be an Indian vessel, or is to be registered under any other law, every owner of such vessel shall immediately on obtaining knowledge of the event, if no notice thereof has already been given to the Registrar, give notice thereof to the Registrar so that Registrar can make entries in his records accordingly.

*Clause 23.*— This clause seeks to provide for provisional registration of Indian vessel. It provides that the Registrar, Indian consular officer or any person authorised by the Central Government may issue the certificate of provisional registration for a period of six months, which may further be extended by three more months to complete the formalities of permanent registration and such provisional certificate is required to be delivered to the Registrar for cancellation where a vessel has been permanently registered.

*Clause 24.*— This clause seeks to provide for the conditions when share of an Indian vessel may not be transferred like during emergency without the previous approval of the Central Government. It further provides conditions of transfer or acquisition of an Indian vessel like satisfaction of mortgages, statutory fee, wages, etc. It also provides that the instrument of transfer shall be in writing with requisite particulars.

*Clause 25.*— This clause seeks to provide for registry of transfer. It provides that every instrument for the transfer of an Indian vessel or of a share therein when duly executed shall be produced to the Registrar of her port of registry, and the Registrar shall thereupon enter in the register book the name of the transferee as owner of the vessel or share, as the case may be, and shall endorse on the instrument the fact of that entry having been made with the day and hour thereof and every such instrument shall be entered in the register book in the order of its production to the Registrar.

*Clause 26.*— This clause seeks to provide for the transmission of property in Indian vessel on death, insolvency, etc. It provides for certain action to be completed by the person to whom the property in a vessel has been transferred on the death or insolvency of any registered owner, or by any lawful means other than by a transfer under this Bill. Registrar shall make an entry in the register book and if by such transmission the vessel ceases to be an Indian vessel, the Registrar need not make any entry in the register book.

*Clause 27.*— This clause seeks to provide, *inter alia*, to make an application to the High Court for a direction for the sale of a vessel to any citizen of India or any company or body or co-operative society if where the vessel has ceased to be an Indian vessel and the Registrar of the port of registry to submit report to the Central Government setting out the circumstances in which the vessel has ceased to be an Indian vessel.

*Clause 28.*— This clause seeks to provide for transfer of vessel on sale by order of court. It provides that any court may order the sale of vessel or share therein with a declaration vesting in person named by the court the right to transfer that vessel or share, and that person shall thereupon be entitled to transfer the vessel or share in the same manner and to the same extent as if he were the registered owner thereof.

*Clause 29.*— This clause seeks to provide for mortgage of vessel or share therein which may be made for security for a loan or other valuable consideration.

*Clause 30.*— This clause seeks to provide the rights of mortgagee. It provides that where there is only one registered mortgagee of a vessel or share, he shall be entitled to recover the amount due under the mortgage by selling the mortgaged vessel or share without approaching the High Court. It further provides that where there are two or more registered mortgagees of a vessel or share they shall be entitled to recover the amount due under the mortgage in the High Court.

*Clause 31.*— This clause seeks to provide that a registered mortgage of a vessel or share shall not be affected by any act of insolvency committed by the mortgagor after the date of the record of such mortgage.

*Clause 32.*— This clause seeks to provide for transfer of mortgage or shares to any person by the instrument and after production of such instrument, the Registrar shall record the details in a register book.

*Clause 33.*— This clause seeks to provide for transmission of interests in mortgage in certain circumstances. It provides that the interest of a mortgagee in a vessel or share if transmitted on death, or insolvency, or by any lawful means other than by a transfer under this Bill, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted and it shall be containing a statement of the manner in which and the person to whom the property has been transmitted and shall be accompanied by like evidence.

*Clause 34.*— This clause seeks to provide that the Indian vessel shall be described by name, call sign and an official number for the purpose of proper identification of the vessel.

*Clause 35.*— This clause seeks to provide that when the vessel is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then the Registrar at the first port at which the vessel arrives after the alteration, shall, on an application being made to him by the owner stating the particulars of the alteration, either cause the alteration to be registered or direct that the vessel be registered anew.

*Clause 36.*— This clause seeks to provide for provisional certificate and endorsement where vessel is to be registered anew. It provides that where any Registrar, not being the Registrar of the vessel's port of registry, on an application as to an alteration in a vessel directs the vessel to be registered anew, he shall either grant a provisional certificate describing the vessel as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

*Clause 37.*— This clause seeks to provide that where the ownership of any Indian vessel is changed, the Registrar of the port at which the vessel is registered may on the application of the owner of the vessel, register the vessel anew.

*Clause 38.*— This clause seeks to provide for transfer of registry. It provides that the registry of any vessel may be transferred from one port of registry to another on an application to the Registrar of the existing port of registry of the vessel made by declaration made in

writing of all persons appearing in the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

*Clause 39.*— This clause seeks to put restrictions on re-registry of abandoned vessel. It provides that where a vessel has ceased to be registered as an Indian vessel by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy, the vessel shall not be re-registered until she has, at the expense of the applicant for the registry, been surveyed by a surveyor and certified by him to be seaworthy.

*Clause 40.*— This clause seeks to empower the Central Government to declare the proper national colours for all Indian vessels and for vessels owned by the Government with power to declare different colours for different class of vessels. It also empowers the commissioned officer of the Indian Navy, any officers of the Indian Coast Guard, a surveyor to board and seize and take away the colours which are hoisted contrary to the provisions of Bill. It also imposes ban on Indian national colours on vessels for the purpose of making it appear to be a vessel which is not an Indian vessel.

*Clause 41.*— This clause seeks to provide that no owner or master of an Indian vessel shall knowingly do anything or permit anything to be done, or carry or permit to be carried any papers or documents, with intent to conceal the Indian character of the vessel from any person entitled by any law for the time being in force to inquire into the same with intent to assume a foreign character for the vessel, or with intent to deceive any person so entitled.

*Clause 42.*— This clause seeks to provide that an Indian vessel shall not be entitled to any privileges, benefits, advantages or protection usually enjoyed by Indian vessel or to use the Indian national colours for Indian vessel or to assume the Indian national character of such vessel has not been recognised as Indian vessel and for the purpose of payment of dues, the liability of fine and forfeiture and the punishment for the offences committed on board such vessels may be dealt with in the same manner as if the vessel is a recognised Indian vessel.

*Clause 43.*— This clause seeks to provide that any vessel that is either wholly or any share therein become subject to forfeiture under Part III, then, any commissioned officer of the Indian Navy, Indian Coast Guard, any Indian consular officer or any other officer authorised by the Central Government, may seize and detain the vessel, and bring her for adjudication before the High Court.

*Clause 44.*— This clause seeks to provide for liability of owners. It provides that where any person is beneficially interested otherwise than by way of mortgage in any vessel or share in a vessel registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all the pecuniary penalties imposed by this Bill or any other Act on the owners of vessel or shares therein, without prejudice that proceedings for the enforcement of any such penalties may be taken against both or either of the said parties jointly or severally.

*Clause 45.*— This clause seeks to provide that any person may inspect any register book, and may obtain a certified copy of any entry in the register book, by making an application to the Registrar and the evidentiary value of a certified copy of an entry in the registered book.

*Clause 46.*— This clause seeks to enable the owner of an Indian vessel to may make an application to the Registrar to close its registry subject to that there is no unsatisfied mortgage and outstanding claims of the master or seafarer of the vessel in respect of wages have been intimated.

*Clause 47.*— This clause seeks to provide the application of Chapter II of Part III of the Bill. It provides that this Chapter shall be applicable to any vessel registered under the law of any country other than India and chartered by an Indian charterer on bareboat charter-cum-demise contract.

*Clause 48.*—This clause contains definitions of various expressions specified in Chapter II of Part III of this Bill.

*Clause 49.*—This clause seeks to provide for registration of vessel chartered on bareboat charter-cum-demise contract and the procedure to be followed and the provisions of the validity of registration period, its closure with power to hoist Indian flag, etc.

*Clause 50.*—This clause seeks to empower the Central Government to make rules to carry out the purposes covered under Part III of the Bill.

*Clause 51.*—This clause seeks to mandate that every Indian vessel to be provided with the seafarers as per manning scale provided by rules and requirement that the seafarer shall hold such certificate as per grade and the number of persons with such qualifications for manning different types of vessels. It also provides that Indian national with foreign certificate and foreign national with foreign certificate or Indian certificate of competence may be allowed to work on board Indian vessel subject to the conditions to be specified in the rules.

*Clause 52.*—This clause empowers the Central Government to grant certificate of competency or certificate of proficiency subject to fulfilment of requirements in respect of service, age limit, medical fitness, training, qualifications and examination in accordance with the STCW Convention subject to payment of such fee.

*Clause 53.*— This clause seeks to empower the Director-General to administer, supervise and monitor all activities related to training and assessment for grant of certificate of competency or certificate of proficiency and to approve training institute, courses and the method of conducting training for granting such certificates and also with power to authorise any person to conduct inspection and submit report to him.

*Clause 54.*— This clause seeks to provide for examination for grant of certificates. It empowers the Central Government to appoint a person to examine the qualification for persons desirous of such certificates. It further provides the manner of conducting examination and fee to be charged and payment to the examiner. It also provides to grant certificates to applicants who have passed examination. It also empowers the Central Government to withdraw, suspend and cancel such certificate in case it is obtained through false and erroneous information or if the person is guilty of misconduct. It also provides for re-issue of certificate in case of loss, etc., on payment of such fee as per rules.

*Clause 55.*— This clause cast a duty on the master of the vessel to produce the list of seafarers along with the certificate of competency of the seafarer along with the list of crew, etc., to the proper officer. It also empowers the surveyor to go on board a vessel for the purpose of ensuring that the seafarers on board possess the certificates as per the STCW convention.

*Clause 56.*— This clause seeks to provide that India may recognise foreign certificate of competency and certificate of proficiency as equivalent if they meet essential conditions like standards not being less than that of Indian certificate holders and recognitions of Indian certificates under Part IV in their countries and the certificate recognised as equivalent may be issued with a certificate of endorsement and a person holding the certificate of endorsement shall be considered duly certificated.

*Clause 57.*—This clause seeks to provide that foreign vessel shall not proceed to sea from any port or place of India without the requisite number of seafarers of appropriate grades and empowers the surveyor to board the vessel for the purpose of ensuring that the seafarers holding certificates are actually appointed and are actually present and are adequate in number for the watch keeping duty in ports and at sea. It also empowers the Central Government to detain a foreign vessel in case of deficiency on the report of the surveyor.

*Clause 58.*— This clause seeks to provide for obligations of certain certificate holders to serve the Government or in Indian vessels during a proclamation of emergency or when security of India is threatened according to the provisions of the Constitution.

*Clause 59.*— This clause seeks to provide for the rule making power of the Central Government for the provisions of Part IV.

*Clause 60.*—This clause seeks to provide for the applicability of Part V. It applies to every seafarer, recruitment and placement service and ship owners.

*Clause 61.*—This clause seeks to define certain expressions which are specified Part V.

*Clause 62.*— This clause seeks to empower the Central Government to make rules for the classification of seafarers into different categories, minimum scale and the different scale for different classes of ships and application of the provisions to the seafarer employed or engaged as a member of the crew of a ship.

*Clause 63.*— This clause seeks to provide for application of maritime labour standards to seafarers and ships registered under this Bill, except ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where any law for the time being in force relating to ports apply; ships engaged in fishing activities; traditionally built ships such as dhows and junks and ships of war or naval auxiliaries. It further provides that the Central Government shall have power on recommendation of the Director-General to extend the provision of this clause to any category of ships and the ships to possess certificate in accordance with the provisions of the Maritime Labour Convention and also prohibits the ships to proceed to sea without possessing the certificate.

*Clause 64.*— This clause seeks to enumerate the duties of the shipping master.

*Clause 65.*— This clause seeks to enumerate the business of the seafarer's employment office, such as issuance to licence of recruitment and placement services and to perform any other functions provided by rules made by the Central Government.

*Clause 66.*—This clause seeks to provide for the engagement of seafarer by licensed recruitment and placement service and the owners of Indian vessels. It prohibits a person other than the owner of the vessel to carry on the business of recruitment and placement of service without license; to engage the seafarers without possession of continuous discharge certificate and identity documents; and the person under sixteen years for engagement or carried to sea to work in any capacity without such qualifications specified by the Central Government. It also prohibits the engagement of seafarer in a ship without possessing a medical fitness certificate and any person who claims to represent the interests of seafarers shall not demand or receive, either directly or indirectly, from any seafarer or person seeking employment as seafarer or any person on his behalf, any remuneration or donation or fees or compulsory subscription of any kind attributable from such seafarer or person's employment as seafarer, other than the fees authorised by the provisions of this Bill.

Clause 66 also provides that the Central Government may, by notification, fix the fees which shall be payable upon all engagements and discharges of the seafarer and the services of the seafarer engaged in contravention thereof shall not be recognised for the purposes of certification under Part IV.

*Clause 67.*—This clause seeks to provide that every master or owner or his agent shall for the purpose of engagement of seafarer enter into an articles of agreement with the seafarer and submit a copy of such agreement to the shipping master. It specifies certain provisions therein for engagement of a seafarer who is not a citizen of India. It further specifies the time when the wages and provisions shall be taken to begin, and provides that no agreement shall forfeit the lien on the ship or deprive of any remedy for recovery of wages of the seafarer and every stipulation inconsistent with the provisions of this Bill will be void.

*Clause 68.*—This clause seeks to empower the Central Government to make rules for the matters relating to seafarer's employment and condition of services including skill development and opportunity or any other requirements under the Maritime Labour Convention.

*Clause 69.*—This clause seeks to entitle the seafarer to receive wages or compensation for loss of effects in case of wreck, loss or abandonment of the ship or by reason of his being left on shore at any place outside India under a certificate granted under this Bill for his unfitness or inability to proceed on the voyage however he shall not be entitled to receive wages if through negligence he failed to apply to proper authority for relief as a distressed or destitute seafarer. It further provides the amount of compensation shall be deposited with the shipping master at the port of engagement in India for payment to a seafarer or in the case of a deceased seafarer with the person nominated by him or in case he has not made any nomination or nomination has become void, to his legal heirs. The seafarer is entitled to receive wages during captivity including incidence of piracy in the course of his employment.

*Clause 70.*—This clause seeks to provide that seafarer shall not be entitled to wages like absence without leave, etc.

*Clause 71.*—This clause seeks to provide for compensation to the seafarer by the master, owner or his agent for the damage caused due to premature discharge apart from the wages due and also prescribe the limit of such compensation.

*Clause 72.*—This clause seeks to provide certain restrictions in respect of wages due to a seafarer such as from attachment by order of any court and any assignment prior to the accruing thereof shall not bind the person making the same subject to that it shall not apply if such assignment is under the scheme approved by the Government.

*Clause 73.*—This clause seeks to provide the manner of discharge of seafarer. It provides that if any Indian ship is transferred or disposed of, then the seafarer belonging to that ship shall be discharged at that port unless he consents in writing to complete the voyage in the ship if continued. It further provides certain conditions for discharge of seafarer, entitlement of wages, etc.

*Clause 74.*—This clause seeks to mandate the master to enter into the logbook a statement of the amount due to the seafarer in respect of wages and his property, at the time when such seafarer was left behind or lost overboard or is deceased.

*Clause 75.*—This clause seeks to provide that if the service of the seafarer is terminated without consent at a foreign Port and before the expiration of the contract, the master or owner of the ship or his agent shall make adequate provisions for the maintenance of the seafarer according to his rank and rating and for the return of that seafarer to the proper port. It further provides that if the master, owner or agent fails without reasonable cause to provide expenses of maintenance and for the journey of proper return port, if defrayed by the seafarer, shall be recoverable as wages due to him and if defrayed by the Indian consular officer be regarded as expenses falling within the provisions of clause 86.

*Clause 76.*—This clause seeks to provide that in case the amount deposited with or recovered by the shipping master is unclaimed as wages for making payment then shipping master after a period not less than six years can utilise that money for the welfare of the seafarer as the Central Government may direct.

*Clause 77.*—This clause seeks to provide that any dispute between the master, owner, or his agent and the seafarer under the agreement shall be submitted to the shipping master and he shall decide upon the dispute submitted and make an award which shall be conclusive. It further provides that any person aggrieved by the award shall approach the principle officer for the appeal and if a person is aggrieved by the award of the principle officer shall go for second appeal to the Director-General. It also provides that an award made under this clause shall be enforced by a Judicial Magistrate of the first class or a Metropolitan Magistrate and the provisions of the Arbitration and Conciliation Act, 1996 shall not apply to any matter submitted for decision to the shipping master.

*Clause 78.*—This clause seeks to provide that the shipping master may require the owner, master or any mate or other member of the crew to produce the logbook, papers or other documents in his possession and also requires their attendance for the purpose of examination.

*Clause 79.*—This clause seeks to provide that the proceedings for wages of seafarer shall be conducted by summary procedure by the Judicial Magistrate of the first class or any Metropolitan Magistrate.

*Clause 80.*—This clause bars for institution of suits for wages in any civil court except where the owner of the ship is declared insolvent, ship is under arrest or sold by the authority of the court and a judicial magistrate of the first class or the metropolitan magistrate refers claims to the court.

*Clause 81.*—This clause seeks to provide that if the seafarer's voyage terminates in India, he shall not be entitled to sue in any court outside India for wages unless he is discharged with such sanction as required under the provisions of the Bill and with the written consent of the master or proves ill-usage on the part, authority or by the authority of the master as to warrant a reasonable apprehension of danger to his life if he remains onboard.

*Clause 82.*—his clause seeks to provide for the rights, liens and remedies of a master of a ship for the recovery of wages same as a seafarer and the same rights of a acting master due to disease or incapacity from illness of the master. It empowers the court dealing with the claim of a master in respect of such wages, disbursements to settle all accounts then arising for outstanding.

*Clause 83.*—This clause seeks to empower the Central Government to refer the dispute between seafarer and their employer to the Tribunal for adjudication.

*Clause 84.*—This clause empowers the Central Government or such officer as appointed by it to recover the wages and compensation due to a seafarer who is lost with the ship to which he belongs, from the master or owner of a ship or his agent.

*Clause 85.*—This clause seeks to provide that the seafarer can make a nomination of his family member on his behalf subject to that if a seafarer acquires a family after he has made any such nomination, the nomination shall become void and the form for nomination and matters connected with nomination shall be provided by rules by the Central Government.

*Clause 86.*—This clause seeks to provide that in case a seafarer is in distressed condition, the Indian consular officer at or near the place where a seafarer is in distress shall, on application being made to him by the distressed seafarer, provide in accordance with the rules made under this Bill for the return of that seafarer to a proper return port, and also for the said seafarer's necessary clothing and maintenance until his arrival at such port and expenses incurred in such repatriation shall be a debt due to the Central Government by the owner or agent of the ship.

*Clause 87.*—his clause seeks to provide that a certificate of the Central Government or of such officer as the Central Government may specify in this behalf, to be provided to any seafarer in distress and that shall be a conclusive evidence that such seafarer is distressed within the meaning of this Bill.

*Clause 88.*—This clause seeks to provide that any shipping master, surveyor, seaman welfare officer, Indian consular officer under the circumstances mentioned therein enter on-board the ship and inspect such ship. It further provides that Indian ships in international voyage shall possess a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance and for the purpose of preventing seafarer from being taken onboard any ship at any port in India contrary to the provisions of this Bill, the shipping master and other officers may enter at any time onboard any such ship he has reason to believe that the seafarer is being shipped.

*Clause 89.*—This clause seeks to provide certain special protection to seafarers in case of litigation. It, *interalia*, provides that a seafarer shall, for the purposes of this Part, be deemed to be a serving seafarer during any period commencing on the date of the agreement

with the crew and ending thirty days after the date on which the seafarer is finally discharged from such agreement and provided that the Collector may certify that a person is serving seafarer for the purpose of conducting legal proceedings.

*Clause 90.*—This clause seeks to enable seafarer to make a complaint against the master or any member of the crew if the ship is at a place where there is a Judicial Magistrate of the first class or a Metropolitan Magistrate or when the ship reaches a place where such Magistrate is available.

*Clause 91.*—This clause seeks to provide that assignment of salvage payable to a seafarer made prior to the accruing thereof shall not bind the person making the same, and a power of attorney or authority for the receipt of any such salvage shall not be irrevocable.

*Clause 92.*—This clause seeks to provide that any person at any port or place other than a person in the service of the Government or duly authorised by law if goes to board a ship without permission, the master of the ship may take such person into custody and deliver him up forthwith to a police officer to be taken before a Judicial Magistrate of the first class or a Metropolitan Magistrate.

*Clause 93.*—This clause seeks to provide that no Indian seafarer shall knowingly do anything tending to the immediate loss or destruction of, or serious damage to, the ship, or tending immediately to endanger the life of, or to cause injury to any person belonging to or onboard the ship and refuse or omit to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or onboard the ship from danger to life or from injury.

*Clause 94.*—This clause seeks to provide that no seafarer shall desert his ship or neglect or be absent from ship without leave or without reasonable ground and that refusal, absent, etc., of a seafarer engaged on the ground of a ship as unseaworthy shall be a reasonable cause. Provided, if the seafarer before failing or refusing to join a ship informed the master or a shipping master, surveyor, seafarer's welfare officer, port health officer, Indian consular officer or any other officer at any port duly authorised in this behalf by the Central Government, that the ship is unseaworthy. It further provides that if the seafarer without sufficient reasons absents himself from his ship or deserts his ship and on being satisfied the shipping master may report it to the Director-General who may thereupon direct that the seamen identity document and continuous discharge certificate may be held for such period as may be specified and if any seafarer deserts or absents himself from the ship then the master, mate, owner or agent without prejudice to any other action that may be taken against the seafarer under this Bill may use such force as may be reasonable in the circumstances of the case. It also provides that if a seafarer commits offence of desertion or is absent without leave or any other offence against discipline outside India then, master, mate, owner or agent shall be permitted to arrest him without warrant and the seafarer should not be arrested on improper or insufficient grounds and also provides that if any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender then it can be deducted from his wages.

*Clause 95.*—This clause seeks to enlist all the actions of discipline in violation of which the seafarer shall be guilty of an offence.

*Clause 96.*—This clause seeks to provide that if the seafarer is convicted of an offence of smuggling any goods whereby loss or damage is occasioned to the master or the owner, then, a sum sufficient to reimburse the loss or damage could be recovered in lieu of whole or part of his wages and the Director-General can cancel or suspend the seafarer identity document or continuous discharge certificate of such seafarer convicted of offence of smuggling.

*Clause 97.*—This clause seeks to provide that if any offence of desertion, absence without leave, against discipline or any other misconduct is committed by seafarer for which offender's agreement imposes a fine, then entry of such offence or act shall be made in the official by book, and if the offender is still on ship and it is yet to arrive, he shall be furnished

with a copy of the entry and the same be read out to him and then he has to make a reply as he thinks fit and after which, a statement of a copy of the entry having been so furnished and the entry having been so read over and the reply, if any, made by the offender shall likewise be entered and signed.

*Clause 98.*—This clause seeks to provide that if any seafarer engaged outside India on an Indian ship deserts himself in India without leave, the master of a ship within forty- eight hours of discovering such desertion or absence report to the shipping master or to such officer as the Central Government may specify.

*Clause 99.*—This clause seeks to provide that in case of desertion from Indian ship, the master shall produce the official logbook to the Indian consular officer and the officer shall thereupon make and certify a copy of the entry and shall transmit such a copy of entry certified to the shipping master to be produced before a legal proceedings and such a certified copy can be admissible in evidence in a legal proceedings for desertion.

*Clause 100.*—This clause seeks to provide that for proving desertion from ship it has to be shown that the seafarer was duly engaged in or belonged to the ship and he left the ship without completion of the voyage or engagement and entry of desertion of the seafarer's shall be duly made in the official logbook. It further provides that the desertion leading to forfeiture of wages shall be deemed to be proved unless the seafarer produces proper certificate of discharge or show to the court that he had sufficient reason for leaving the ship.

*Clause 101.*—This clause seeks to provide that wages or other property forfeited for desertion from the ship shall be applied for reimbursing the expenses caused by the desertion to the master or the owner or agent subject to that the reimbursement shall be paid to the Central Government. It further provides that the wages earned subsequent to desertion may be recovered.

*Clause 102.*—This clause seeks to provide that any question concerning the forfeiture or deductions from the wages of a seafarer may be determined in any proceeding lawfully instituted with respect to those wages.

*Clause 103.*—This clause seeks to provide the procedure of deduction of a fine imposed on seafarer for any act of misconduct under the agreement and such proceeds of all fines received by the shipping master shall be used for the welfare of seafarers in a manner as the Central Government may direct.

*Clause 104.*—This clause prohibits any person to persuade or attempt to persuade a seafarer to neglect or refuse to join or proceed to sea or desert from ship or absent himself from his duty or harbour or secrete a seafarer from doing the same.

*Clause 105.*—This clause seeks to provide that no person shall secrete himself and go to sea in a ship without the consent of the owner, agent or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent. It further provides that if the master is compelled to take onboard any seafaring person as long as he remains on ship shall be subject to laws of discipline as if the member has signed the agreement with the crew and the master shall report in writing about any person gone to sea on a ship without consent to the proper officer as soon as the arrival of the ship.

*Clause 106.*—This clause seeks to provide that if during the voyage, the master of Indian ship is removed or superseded or quits the ship and is succeeded by the command by some other person, then, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody and a handing over note enlisting such documents and on receipt of such documents and the handing over note, the successor shall make an entry in the official logbook to that effect which shall also be endorsed by the predecessor.

*Clause 107.*—This clause seeks to provide that if due facilities shall be given by the Government of any Country outside India for recovering or apprehending seafarers who desert from Indian ship in that country, the Central Government may by notification declare

that this clause shall apply to seafarers belonging to ships of such country, subject to such limitations or conditions as may be specified in the notification and if the seafarer belonging to ship of any country deserts then, on the application of a consular officer of that country shall aid in apprehending the deserter and for that purpose may on information given on oath, issue a warrant for his apprehension and on proof of the desertion order him to be conveyed onboard his ship or delivered to the master or mate of his ship or to the owner of the ship or his agent to be so conveyed and any such warrant or order may be executed accordingly.

*Clause 108.*—This clause seeks to provide for keeping of official logbook for a ship exceeding two hundred tons gross and cast a duty on the master, owner or his agent of every ship for which an official logbook is required to be kept, to deliver the official logbook to the shipping master as and when required by him. It further provides that no entry in the official-log book shall be made in respect of any occurrence prior to arrival of the ship at her final port.

*Clause 109.*—This clause empowers the Central Government to make rules to carry out the provisions of Part V of the Bill.

*Clause 110.*—This clause seeks to provide for application of Part VI to Indian vessels, and foreign vessels on matters related to safety and security and the port facilities on security aspects and company on matters relating to safety and security.

*Clause 111.*—This clause seeks to define various expressions specific to Chapter VI.

*Clause 112.*—This clause seeks to provide for compliance of various obligations under the international treaties to which India is a Party. Each of these treaties specified therein contains certain obligations for the State, to enact suitable national legislation to implement and enforce the treaties fully and effectively.

*Clause 113.*—This clause seeks to impose obligation on the master of a vessel to report any incident relating to safety of vessel, safety of persons onboard, loss of dangerous cargo to the sea, matters affecting safe navigation, abandonment of vessels, etc., to an authority designated for this purpose by the Central Government.

*Clause 114.*—This clause seeks to impose obligation on the master of an Indian vessel to provide assistance to any distress situation at sea, when he receives such a message seeking assistance. It further provides that the master is duty bound to provide assistance until he is relieved of this duty and also provides for the mandatory maintenance of records and the circumstances in which the master is unable to provide assistance.

*Clause 115.*—This clause seeks to empower the Central Government for making arrangements for search and rescue at sea and establishment of rescue coordination centres and sub-centres by India as required under International Convention on Maritime Search and Rescue, 1979 and agreement related thereto.

*Clause 116.*—This clause seeks to provide for requirements of radio communication, distress and safety equipment and the certified operators required on ships.

*Clause 117.*—This clause seeks to mandate that every vessel should possess the information relating to its stability and the effects of any damages to the vessel and the precautions for maintaining water tight integrity of the vessel.

*Clause 118.*—This clause seeks to provide loading of vessel as per load line rules and contain provisions to detain a vessel from proceeding to sea if it is loaded in contravention of such rules.

*Clause 119.*—This clause seeks to obligate every vessel to have appropriate certificates while carrying passengers between ports or places in India, or to or from any port or place in India from or to any port or place outside India. It further provides for the Central Government to specify the conditions for passenger accommodation, passenger and

crew amenities, and other facilities while carrying passengers and the master of every passenger vessel to oblige to make a statement about the passengers onboard as provided by the rules by the Central Government.

*Clause 120.*—This clause seeks to provide that every vessel should be in possession of valid safety and security certificates whenever she proceeds to sea as required under the convention or agreement referred to in clause 112.

*Clause 121.*—This clause seeks to provide various acts which constitute offences.

*Clause 122.*—This clause seeks to provide that no vessel shall carry or attempt to carry cargo in contravention of clause 120 or shall have onboard or in any Part thereof a cargo which is not in accordance with the certificate held by the vessel. It further provides that for violations, the master shall be held liable and his certificate of competency shall be cancelled or suspended for such period as the Central Government may specify in an order made in this behalf.

*Clause 123.*—This clause seeks to provide that every person (owner or company or master) who sends an unseaworthy vessel to sea is guilty of an offence and it mandates the prior consent of the Central Government for prosecution of such person.

*Clause 124.*—This clause seeks to cast obligation on the ship owner, master or his agent to ensure the seaworthiness of the vessel for the voyage and to keep her in a seaworthy state during the voyage.

*Clause 125.*—This clause seeks to provide for implementation of safety and security management of the vessels and the port facilities where the vessels have an interface. It further provides for maintaining different levels of security by vessels and ports depending on the security situation in the country.

*Clause 126.*—This clause seeks to provide for the inspection and boarding of vessels, to verify compliance with requirements specified in Part VI and to enforce the provisions under the Bill and foreign flag vessels can be inspected under port state control being an obligation under the treaties. It further provides for intervention such as detention as a Part of the enforcement measure and also for entering into agreements with other countries or organisations for effective implementation of the provisions of this Bill.

*Clause 127.*—This clause seeks to make the Central Government liable to pay to the owner or master the costs for an unreasonable detention or undue delay. It further provides that the owner of a vessel shall be liable to pay to the Central Government its costs of and incidental to the detention and survey of the vessel if the vessel is detained by reason of its condition or due to act of default of owner or master and the vessel shall not be released until such costs are paid and faults are rectified.

*Clause 128.*—This clause seeks to empower the Central Government to make the rules under Part VI relating to safety and security aspects.

*Clause 129.*—This clause seeks to specify the application of Part VII. It applies, *inter alia*, to Indian vessels, ports and foreign vessels on matters related to prevention of pollution.

*Clause 130.*—This clause seeks to define certain expressions which are specific to Part VII.

*Clause 131.*—This clause seeks to prevent the ship-generated pollution such as the discharges or emissions of harmful substances or mixtures containing such substances. It empowers the Central Government to make necessary rules for the construction, survey or equipment to be fitted onboard ships for this purpose, and to specify the conditions for issuance of the certificates. It further provides for the survey of the hull, equipment or machinery of vessel by surveyors and the manner in which certificates are issued to verify and demonstrate the compliance with the applicable pollution prevention requirements,

under this Part. It also provides for controlling the deliberate dumping of wastes and other matter into the sea by ships.

*Clause 132.*—This clause seeks to provide for meeting various obligations towards prevention of marine pollution under the international maritime treaties specified therein. It further provides that the vessel, to which the provisions of the conventions mentioned therein are applicable, to comply with such pollution prevention requirements as may be provided by the rules. It also empowers the Central Government to prescribe different rules for pollution prevention for different classes of vessels.

*Clause 133.*—This clause seeks to provide that every vessel (cargo vessel as well as passenger vessel) shall be in possession of valid pollution prevention certificates as per conventions specified under clause 132, whenever she proceeds to sea.

*Clause 134.*—This clause seeks to ensure that records of ship-generated wastes and disposal are mandatorily maintained, as per the rules made by the Central Government and also empowers the Central Government to make rules for the details of records, its custody, the manner in which these are to be maintained and such other related matters.

*Clause 135.*—This clause seeks to provide that in order to prevent and control the discharges into the sea from ships, every port is required to have necessary facilities to receive the various kinds of wastes generated on ships. It further provides that every port or place where the ship has an interface is obliged to provide necessary reception facilities under the applicable international conventions. It also provides that the wastes generated during operation, repair and recycling of vessel are collected, handled, treated and disposed of in a safe and environmentally sound manner, to protect human health and the environment and empowers the port authority to impose suitable charges for providing such facilities for receiving wastes from ships. It also empowers the Central Government to give directions in case there are no reception facilities at any port or place in India or that the facilities available at such port or place are not adequate for enabling vessel calling at such port or place to comply with the requirements of pollution prevention.

*Clause 136.*—This clause seeks to obligate the master of a vessel to make a report to the authority designated by the Central Government, whenever an incident in which the cargo or harmful substances as covered under Part VII or the pollution prevention convention is escaping or likely to escape and may cause or threaten to cause pollution of air, any Part of coasts or coastal waters of India and the responsibility of the master for failure in making such reports. It empowers the Central Government to direct the owner, agent, master, charterer, operator, lessee or licensee of the vessel through a notice, to take immediate necessary action to prevent or control pollution, in case an incident of pollution occurs or likely to occur and also empowers the Central Government to take any suitable and appropriate measures, as deemed necessary, to prevent, mitigate or eliminate the threat or danger from pollution, whenever a pollution is caused or likely to be caused by release of harmful substances, or whenever a grave and imminent danger to the coastline or related interest is likely from an incident of pollution or threat of pollution.

*Clause 137.*—This clause empowers the Central Government to give directions to Indian ships to provide assistance in combating pollution, subject to payment of reasonable fees for the services provided.

*Clause 138.*—This clause seeks to empower the Central Government to make rules under Part VII of the Bill relating to pollution prevention aspects covered thereunder.

*Clause 139.*—This clause seeks to put an obligation that every vessel, port facility, shipyard, ship breaking and ship repairing units, offshore facilities or terminal shall be surveyed or audited towards verification of the requirements under the Bill. It further provides for the issuance of certificates after satisfactory completion of the survey or audit and once an audit or survey is done, no material change shall be effected without the permission of the Central Government and in case such modifications are made without informing the

Central Government, such certificates are liable to be cancelled and prevents a vessel from proceeding to sea without the necessary certificates or documents, except when an exemption is granted by the Central Government.

*Clause 140.*—This clause seeks to provide that every vessel shall possess the prescribed certificates, as may be specified under the rules.

*Clause 141.*—This clause seeks to empowers the surveyor for the inspection of the vessel as necessary and to board the vessel for implementation and enforcement purposes.

*Clause 142.*—This clause seeks to ensure that every vessel, Company, port facility, shipyard, etc., shall be surveyed, audited and certified to confirm the compliance of requirements of various international conventions as specified therein. It also provides for survey and certification of non-convention vessels.

*Clause 143.*—This clause seeks to provide for the recognition of the certificates issued to ships outside India by the flag authority of the vessel.

*Clause 144.*—This clause seeks to enable Indian vessels to be issued with certificates in other countries, as well as issuance of certificates to foreign vessels in India.

*Clause 145.*—This clause seeks to empower the Central Government to make the rules for the matters covered under Part VIII.

*Clause 146.*—This clause seeks to specify the application of Chapter I of Part IX of the Bill. It applies to Indian vessel; and any foreign vessel while it is in a port or place in India including the maritime zones under its jurisdiction as per the Territorial Waters, Continental Shelf, Exclusive Economic and other Maritime Zones Act, 1976 or any other law for the time being in force.

*Clause 147.*—This clause seeks to provide the methodology for the division of liability when collision, damage, or loss occurs on a vessel or vessels and full liability falls upon the vessel whose fault it lies upon and the total liability is shared depending upon proportion to the degree in which each vessel was to blame and the liability is applicable subject to either of the three criteria's specified therein do not get affected. It also provides that references to damage or loss caused by the fault of a vessel shall also include cost due to any salvage or other expenses, after a damage or loss, which is recoverable by way of damages through any law in force.

*Clause 148.*—This clause seeks to apply when compensation is to be paid in case of loss of life or personal injury; the joint liability of owners of vessels or liability of the owner of the vessel whose fault has been determined; whenever a loss of life or personal injuries are suffered by any person onboard a vessel and it prevents depriving any person of any right of defence in court in an action brought against him by the person injured, or any person entitled to sue in respect of such loss of life or affect the right of any person to limit his liability in that particular case.

*Clause 149.*—This clause seeks to provide for sharing of the contribution, in case excess payment of contribution is made by one of the vessel which exceeds the proportion in which vessel was in fault, then, the owner can recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively in fault and the recovery is to be carried out provided that no amount is recovered again, that is, if it has been recovered in the first instance as damages by the person entitled to sue due to a statutory or contractual limitation or exemption. It also provides that for the purpose of recovering the contribution referred to therein, the same rights, and powers of the persons entitled to sue for damages in the first instance is available to the person entitled to any contribution and this recovery is in addition to any other remedy provided by law for the time being in force.

*Clause 150.*—This clause seeks to impose a duty on the master of a vessel to assist the other vessel in case of collision between two vessels without endangering his vessel, crew and passengers. It requires the master to save the other vessel from any danger caused by the collision and to standby near the other vessel until the other vessel needs no further assistance and also requires the master to exchange information such as name of its ship, port of registry, last port and next port of call.

*Clause 151.*—This clause seeks to provide for the requirement of recording of statement and circumstances leading to the collision in the logbook by the master of every vessel and such entry is required to be signed by the master and also by the officer on watch or one of the seafarer.

*Clause 152.*—This clause seeks to mandate that, report has to be made to the Central Government or nearest principal officer in case an Indian vessel has sustained or caused any accident which results in loss of life or any serious injury to any person or vessel has a material damage affecting her seaworthiness or her efficiency either in her hull or is so altered in any Part of her machinery as not to correspond with the particulars contained in any of the certificates issued under this Bill in respect of the vessel and such report is to be made by either the owner or master or agent, within twenty-four hours after the happening of the accident or damage or as soon as possible.

*Clause 153.*—This clause seeks to provide that if the owner or agent of an Indian vessel feels the vessel has been wholly lost due to non-appearance of the vessel or any other circumstances, they shall send notice to The Central Government relating to the loss and cause of the loss along with the vessel particulars such as the name, official number and port of registry, etc.

*Clause 154.*—This clause seeks to specify the application of Chapter II of Part IX relating to Limitation of Liability for Maritime Claims. It applies to Indian ships, and any ship other than an Indian ship while it is in a port or place in India including the maritime zones under its jurisdiction as per the Territorial Waters, Continental Shelf, Exclusive Economic and other Maritime Zones Act, 1976 or any other law for the time being in force.

*Clause 155.*—This clause seeks to provide for the limitation of liability to shipowner or salvor or person for damages in respect of claims, which are enlisted therein, due to their act, neglect or defaulting. It further provides that the limitation of liability shall be applicable even if brought by way of recourse or for indemnity under a contract or otherwise. It also specifies various other claims where the limitation of liability shall not apply.

*Clause 156.*—This clause seeks to provide that provisions of clause 155 cannot be applied to limit the liability if, the loss is resulted from a personal act or omission committed with the intent to cause the loss, or recklessly and with the knowledge that such loss would probably result.

*Clause 157.*—This clause seeks to provide that when limitation of liability is set-to apply for multiple claims of the same occurrence, then the claims shall be set-off against each other and the provisions of Chapter II of Part IX shall apply to the balance, if any.

*Clause 158.*—This clause seeks to stipulate the limits of liability which will be calculated under the provisions of LLMC Convention and as per the rules where provisions of LLMC Convention are not applicable. It further details the hierarchy in which the claims are to be paid, that is, this order shall be determined first by claims in respect of loss of life or personal injury followed by claims in respect of damage to harbour works, basins, waterways and aids to navigation. It also provides that the limit of liability in case of salvor not operating from any vessel or for any salvor operating solely on the vessel to, or in respect of which he is rendering salvage services, shall be calculated according to gross tonnage of 1500.

*Clause 159.*—This clause seeks to provide that in respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship the amount limit of liability of the shipowner thereof shall be such as may be provided by rules.

*Clause 160.*—This clause seeks to provide that the limits of liability as determined in clause 158 shall apply collectively in total to the claims which arise on any distinct occasion as specified therein. It further provides that the limits of liability as determined in relation to limit for passenger claims shall apply in total to the claims which arise against the shipowner and any person for whose act, neglect or default he or they are responsible.

*Clause 161.*—This clause seeks to provide that limitation of liability can be invoked even if the limitation fund as mentioned in clause 162 has not been constituted. It further provides that the person can only invoke the right to limit liability if the limitation fund has been constituted as per the provisions of this Chapter.

*Clause 162.*—This clause seeks to provide for the constitution of limitation fund with the High Court by any person alleged to be liable and against whom legal proceedings are being initiated for claims which are subjected to limitation and the fund shall be constituted in the sum of such of the amounts in accordance with the provisions of clause 158 or 159 as are applicable to claims for which that person may be liable together with interest thereon from the date of occurrence giving rise to the liability until the date of the constitution of the fund. It also provides that the fund amount so constituted shall either to be deposited or guarantee to be produced at the High Court and the fund so constituted shall be available only for the payment of claims in respect of which limitation of liability may be invoked and also provide that the fund so constituted by one of the persons or his insurer shall be deemed to be constituted by all persons mentioned in clause 161.

*Clause 163.*—This clause seeks to provide that fund to be distributed among the claimants in proportion to their established claims against the fund based on the limitation of liability as stated in section 158 or 159 as applicable and if the person who is liable or his insurer settles a claim before the fund is distributed, then the right of the claimant maximum to the amount paid, is transferred to that person or insurer. It further provides for allowing application with respect of transfer of rights by persons other than those mentioned in the said clause to the level provided by the law. It also provides that the High Court may order a sufficient sum to be provisionally set aside to enable a person liable or any other person to enforce his claim against the fund at a later date when this person liable or any other person proves that he needs to pay at a later date wholly or partly part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation as provided therein.

*Clause 164.*—This clause seeks to provide that once claim has been made against the fund by any person that person cannot exercise any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted and if any ship or property which has been attached or arrested for a claim, belonging to a person on behalf of whom fund has been constituted, then, such ship or property may be released by an order of the High Court. It further provides that the provisions of this clause shall apply if the claimant claims the fund before High Court administering that fund and if the fund is available and transferable with respect to that claim.

*Clause 165.*—This clause seeks to mandate the scope of application of the provisions of limitation of liability. It provides that provisions of this clause does not apply to air-cushion vehicles or floating platforms and when the person does not have his habitual residence in India or does not have his principal place of business in India or any ship in relation to which the right of limitation is invoked or whose release is sought and which does not at the time specified above fly the flag of a country, which is a party to the LLMC Convention.

*Clause 166.*—This clause seeks to empower the Central Government to make rules for the matters specified under Chapter II of Part IX.

*Clause 167.*—This clause seeks to specify the application of Chapter III of Part IX. This Chapter applies to oil pollution damage caused by Indian ship and any ship other than an Indian ship while it is in a port or place in India including the maritime zones under its jurisdiction as per the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force. This section also applies to the preventive measure taken to minimise the oil pollution damage.

*Clause 168.*—This clause seeks to define certain expressions which are specific to this Chapter.

*Clause 169.*—This clause seeks to provide for the liability of owner for any pollution damage caused by the ship. It further provides for exemption of the owner from liability if he proves that the pollution damage is the result of an act of war, hostility, civil war, etc., and was wholly caused by an act or omission done with intent to cause damage by a third party and also the damage caused intentionally by a person who suffered the damage or from negligence of that person and specifies the persons against whom the claim for compensation for pollution damage under this Chapter or otherwise cannot be made.

*Clause 170.*—This clause seeks to provide that the owners of all the ships shall be jointly and severally liable for pollution damages in case an incident involves two or more ships.

*Clause 171.*—This clause seeks to provide that owner may limit his liability under this Chapter in respect of any incident, to an aggregate amount by the provisions of the 1992 Liability Convention unless it is proved that the pollution damage resulted from his personal act or omission, committed or made with the intent to cause such damage, or recklessly and with knowledge that such damage may probably result.

*Clause 172.*—This clause seeks to provide for the constitution of a limitation fund by the owner, the insurer or any other person providing financial security to the owner either by depositing the sum with the High Court or by furnishing bank guarantee or such other security as, in the opinion of the High Court, is satisfactory. It further provides that the constitution of the fund shall not prejudice to the rights of any claimant against the owner for full compensation exceeding the amount deposited or secured in the fund.

*Clause 173.*—This clause seeks to provide that before the fund is distributed, the owner or any of his servants or agents or any person providing him insurance or other financial security has as a result of an incident paid compensation for pollution damage, such person shall upto the amount he has paid, acquire by subrogation the rights which the person so compensated may have enjoyed under this Chapter and such owner or insurer can also enforce his claim at a later date after the fund is constituted, in case the compensation has been paid before distribution of the fund.

*Clause 174.*—This clause seeks to provide for the power of High Court to consolidate all the claims against the fund and to distribute the amount in the fund among all claimants in proportion to their established claims. It further provides any claim in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise pollution damage shall, rank equally with other claims against the fund.

*Clause 175.*—This clause seeks to provide that ship carrying more than 2000 ton of oil in bulk as cargo to maintain an insurance or other financial security to cover his liability for pollution damage under Chapter III of Part IX for the amount specified under the provisions of the 1992 Liability Convention and a certificate to that effect shall be issued by the Central Government to every Indian ship and owner or agent of any foreign ship on payment of a fee as may be specified by rules.

*Clause 176.*—This clause seeks to provide that the certificate issued by a competent authority in any country outside India which is a contracting party to the 1992 Liability

Convention to any ship wherever it is registered shall be accepted at any port or place in India as if it were issued under the provisions of this Bill.

*Clause 177.*—This clause seeks to mandate that ships which has on board 2000 tonnes of oil in bulk as cargo shall not enter or leave any port or place in India unless it carries the certificate as per the requirements of clause 175 or clause 176. It further provides that the proper officer shall grant inward entry or outward clearance to any ship only when its master produces a certificate as aforementioned.

*Clause 178.*—This clause seeks to provide for the direct liability of the insurer or other person providing financial security for payment of compensation. It further provides that the insurer or other person may limit his liability in accordance with the provisions of clause 171 provided that the owner has not exercised this option or avail himself of the defenses which the owner himself would have been entitled to invoke and the defendant may avail himself of the defence that the pollution damage resulted from the wilful misconduct of the owner himself, but the defendant shall not avail himself of any other defence which he might have been entitled to invoke in proceedings brought by the owner against him.

*Clause 179.*—This clause seeks to provide for the limitation period of three years for claiming compensation from the date of oil pollution damage or six years, if the incident consists of a series of occurrences.

*Clause 180.*—This clause seeks to exempt the war ships or any ship used by the Government from the application of Chapter III of Part IX.

*Clause 181.*— This clause seeks to empower the Central Government to make rules for the matters covered under Chapter III of Part IX.

*Clause 182.*— This clause seeks to provide for the application of Chapter IV of Part IX relating to civil liability for bunker oil pollution damage.

*Clause 183.*— This clause seeks to define certain expressions specific to this Chapter.

*Clause 184.*— This clause seeks to provide the types of liabilities with respect to pollution caused due to bunker oil discharge or escape which the ship owner shall be liable for.

*Clause 185.*— This clause seeks to exempt from liability for the ship owner, in certain situations such as, if the pollution damage is caused due to act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or was wholly caused by any act or omission done with an intent to cause such damage by any person other than an employee or agent of the owner. It further provides to exonerate the liability of the ship owner when it is proved that the person suffered the damage has intentionally done the damage or due to negligence an oil pollution damage was caused.

*Clause 186.*— This clause seeks to provide for the ship owner or insurer to limit his liability for one or more incidents specified therein in accordance with Chapter II of Part IX.

*Clause 187.*— This clause seeks to provide for determination of limitation of liability by the High Court and the amount once determined has to be deposited with the High Court.

*Clause 188.*— This clause empowers the High Court to consolidate all claims and distribute the amount amongst the claimants.

*Clause 189.*— This clause seeks to stipulate the limitation period of three years for claiming compensation from the date of bunker oil pollution damage or six years if the incident consists of a series of occurrences.

*Clause 190.*— This clause seeks to provide that the owner of ship of more than gross tonnage of thousand has to maintain compulsory insurance coverage or financial security to the limits specified under the provisions of the LLMC Convention.

*Clause 191.*—This clause seeks to provide for authority for direct action against the insurer or other person providing financial security. It provides that the insurer or other person may limit his liability in accordance with the provisions of clause 183 provided that the owner has not exercised this option or avail himself of the defenses which the owner himself would have been entitled to invoke. It further provides that the defendant may avail himself of the defence that the pollution damage resulted from the wilful misconduct of the owner himself, but the defendant shall not avail himself of any other defence which he might have been entitled to invoke in proceedings brought by the owner against him.

*Clause 192.*—This clause seeks to provide that the Central Government shall issue a certificate which complies with the provisions of clause 190 on payment of fee as may be specified by rules and makes provisions for renewal on its expiry.

*Clause 193.*—This clause seeks to provide that no ship can enter or leave any port or place in India unless it has the certificate as per the requirements of clause 192 of this Chapter and the proper officer shall grant inward entry or outward clearance to any ship only when its master produces a certificate as mentioned.

*Clause 194.*—This clause seeks to provide that the right of the ship owner to demand compensation against any other person for his liability.

*Clause 195.*—This clause seeks to confer authority of the enforcement of the judgement of the court.

*Clause 196.*—This clause seeks to empower the Central Government to make rules for the matters covered under Chapter IV of Part IX.

*Clause 197.*—This clause seeks to provide for application of Chapter V of Part IX to oil pollution damage caused within the territorial waters and specifically the maritime zones under its jurisdiction in accordance with the provisions of the Territorial Waters, Continental Shelf, Exclusive Economic Zones and other Maritime Zones Act, 1976 or any other law for the time being in force and also to the preventive measures taken to prevent or minimise the oil pollution damage.

*Clause 198.*—This clause seeks to define certain expressions specific to Chapter V of Part IX.

*Clause 199.*—This clause seeks to provide for the contribution to the fund by the importer or the receiver in respect of contributing oil carried by sea to ports or terminal installations in India as per Articles 10 and 12 of the Fund Convention and also stipulates minimum quantity of 1,50,000 tons per year of oil import as specified in Fund Convention, above which the fund has to be paid.

*Clause 200.*—This clause seeks to provide for the requirements of the minimum contribution payable by persons to the fund which is determined by the Assembly of the Fund under Articles 10 and 12 of the Fund Convention and the power of the Central Government to require the persons to give financial security for payment of contributions to the Central Government or the Fund.

*Clause 201.*—This clause seeks to provide for situations where the fund can be invoked and liable to pay compensation as specified therein. It further provides the situations where fund does not have an obligation to pay the compensation.

*Clause 202.*—This clause seeks to empower the Central Government, to call for information, in particular, the name and addresses of the persons to whom the provisions of clause 197 shall apply and the person making disclosure needs to follow certain conditions specified therein and the liability of person for punishment in case of refusal to comply with the conditions of notice.

*Clause 203.*—This clause seeks to provide for the claims against the Fund and state that any claim against the Fund for compensation under this Chapter shall be brought

directly before the Fund and provides that the jurisdiction of High Court shall be applicable for any action for the claim against the fund. It further provides that the Fund's right to intervene as a party to any legal proceedings instituted in the High Court against the owner or his guarantor and makes judgment of the High Court as final even if the fund has not intervened in its proceedings.

*Clause 204.*—This clause seeks to stipulate the limitation period for claim against the Fund within a time-frame of minimum three years and that no action to enforce a claim shall be brought after six years from the date of the incident that caused such damage.

*Clause 205.*—This clause seeks to provide for the subrogation of right of which the person so compensated would have enjoyed under the Fund Convention when any sum is paid by the fund or any public authority.

*Clause 206.*—This clause seeks to empower the Central Government to make rules to carry out the provisions of the Fund Convention.

*Clause 207.*—This clause seeks to define the marine casualty and mandate on the owner, manager, operator, company, pilot, harbour-master, master, or other person in charge of the vessel, to give notice of the occurrence of casualty within twenty-four hours of such occurrence to the office appointed by the Central Government for the purpose and such officer shall forthwith report in writing the information to the Central Government and may proceed to make preliminary inquiry into the marine casualty and shall furnish the report on completion of independent inquiry into the incident. It further empowers the Central Government to appoint a body to make preliminary assessment of the marine casualty and conduct a marine safety investigation for ascertaining its causes and circumstances and submit its report to the Central Government.

*Clause 208.*—This clause seeks to empower the Central Government to initiate administrative action or to pass direction for proceeding in accordance with the law, if on receipt of report under sub-clause (5) of clause 207 or otherwise, it is of the opinion that *prima facie*, there exists, incompetency, misconduct or violation of any law for the time being in force on the part of any person.

*Clause 209.*—This clause seeks to empower the Central Government to cancel or suspend any certificate granted under this Bill to any seafarer for any specified period, by way of an order, based on inquiry report or for any other default of seafarer listed under that clause.

*Clause 210.*—This clause seeks to empower the Central Government to order re-hearing either generally or for a part thereof of an investigation or inquiry under Part X and in case of new and important evidence which could not be produced at the time of investigation has been discovered, or if for any other reason there has, in its opinion, been a miscarriage of justice, the Central Government is duty bound to order such re-hearing.

*Clause 211.*—This clause seeks to specify the application of Part XI to wrecks located within territory of India including the territorial sea or any marine area adjacent thereto over which India has exclusive jurisdiction under the Territorial Waters, Continental Shelf, Exclusive Economic and other Maritime Zones Act, 1976. It further specifies units or ships of Government for non-commercial use and casualties involving oil pollution in accordance with Intervention on the High Seas in cases of Oil Pollution Casualties, 1969 for which this Part is not applicable.

*Clause 212.*—This clause seeks to define certain expressions specific to Part IX.

*Clause 213.*—This clause seeks to empower the Central Government to appoint person to receive wreck and authorise him to take possession of wreck and take action for disposal or removal by available means for safety and protection of marine environment, as prescribed under the Bill.

*Clause 214.*—This clause seeks to mandate the reporting of incident resulting in wreck. It provides that every master or owner or operator of Indian and foreign vessel

involved in a maritime casualty resulting in a wreck in Indian waters or waters of other country which is a party to the convention to report such incident to the receiver of country appointed by the Central Government and to the authorities of affected country without any delay.

*Clause 215.*—This clause seeks to provide for the criteria for determination of possible hazards and enlists therein various parameters that determine such hazards.

*Clause 216.*— This clause seeks to empower the Central Government to give direction to receiver of wreck and others specified therein to locate and mark the wreck as applicable and also obligates the owner or operator of vessel to mark the wreck at its own cost until the wreck is removed and ensures that the cost towards locating and marking of wrecks is borne by owner or operator of wreck.

*Clause 217.*—This clause seeks to give power to pass over adjoining lands to all persons for rendering assistance to ship for saving shipwrecked persons, its cargo and equipment and obligates concerned persons to minimise damage to cargo or any article recovered from shipwrecked which may be deposited on land and the disputes relating to damage expected by owner or occupier shall be decided by a Magistrate when application made to him.

*Clause 218.*—This clause seeks to specify the prohibition of acts such as attempt to board or leave wreck ship without permission of master or receiver of wreck or an attempt to bring obstruction in action of saving ship, cargo and equipment, removing marks or any part of vessel as stipulated under the provisions of the Bill.

*Clause 219.*—This clause seeks to give power to receiver to make application to Judicial Magistrate of the first class or Metropolitan Magistrate for search warrant, if receiver suspects that wreck is secreted and possessed by person who is not owner and empowers the Judicial Magistrate to grant warrant authorising receiver to search for wreck possessed by person who is not the owner of wreck.

*Clause 220.*—This clause seeks to provides for measures that facilitates the removal of wrecks and mandates the receiver to forward detailed informations to Central Government on determination of possible hazards as stipulated in clause 215. It empowers the Central Government to inform concerned government, affected country and registered owner of the vessel regarding the hazards, measures to be taken to wreck and removal of wreck and the decision of Central Government thereof shall be final. It also mandates the owner of wreck vessel to provide financial security or evidence of insurance to Central Government or receiver of wreck appointed by the Central Government and gives power to the receiver to set period for removal of wreck and empower him to remove wreck by realistic means with due regard to safety and protection of marine environment at the expense of owner or operator.

*Clause 221.*—This clause seeks to provide the liability of owner in respect of cost to be borne by registered owner for locating, marking and removing the wreck. It further provides that the owner may provide evidence of occurrence of marine casualty resulting in wreck such as war, hostilities or any act of non-maintenance of lights or navigational aids by concerned authorities and such liability covers the limit as specified under the provisions of clause 155 of the Bill.

*Clause 222.*—This clause seeks to mandate that every registered owner of Indian ship of gross tonnage of three hundred tons and above should be in possession of valid insurance coverage or financial security and the owner of vessel whether Indian or from other country, which do not carry certificate, is liable for detention by authorities and the cost or claims arising under the Part should be directly against the insurer or person that provides financial security as per circumstances listed which may invoke defence by insurer.

*Clause 223.*— This clause seeks to specify the circumstances where registered owner may not be liable to bear the cost as prescribed in Part XI and specifies the extent of cost

borne by the registered owner and its exception in accordance with other applicable treaties, instruments, as the case may be.

*Clause 224.*—This clause seeks to specify the claims of the owner to wreck and time limit of his entitlement to possess wreck back which is in possession of receiver of wreck and empowers the consular officer to act as agent of owner for custody and disposal of the articles from wreck vessel on behalf of the country where the vessel is registered or, cargo owners belongs to that country within a period of one year for said claim.

*Clause 225.*—This clause seeks to set limit for recovery of cost and stipulates the time period of three years from the date of determination of marine casualty for locating and marking of the vessels and provides that no claim shall be made after the period of six years from the date of such casualty.

*Clause 226.*—This clause seeks to provide for the application of Chapter II of Part XI which includes judicial or arbitral proceedings relating to salvage operations instituted in India and specifies therein the units, ships and other non-commercial vessels for which this clause shall not be applicable.

*Clause 227.*—This clause seeks to define certain expressions specific to Chapter II of Part XI.

*Clause 228.*—This clause seeks to provide for the salvage award for the assistance rendered by the master of a vessel.

*Clause 229.*—This clause seeks to specify the conditions, circumstances and location when salvage is payable to the salvor for saving life, cargo or wreck.

*Clause 230.*—This clause seeks to provide for the entitlements of salvage payments when services are provided by the Government vessels such as Indian Navy or of the Coast Guard and port authorities.

*Clause 231.*—This clause seeks to provide that the master have the authority to conclude contracts for salvage operations on behalf of the owner of the property on board the vessel.

*Clause 232.*—This clause seeks to provide for the duties of salvor towards owner of the vessel or other property in danger and specifies the duties of the owner, master of the vessel or the owner of other property who is in danger towards salvor.

*Clause 233.*—This clause seeks to provide for the measures to be taken by the Central Government to protect its coastline from threat of pollution consequential to occurrence of maritime casualty and empowers the Central Government to issue directions to the owner or the master or salvor and other public authorities associated with salvage operations and seek their cooperation to initiate salvage services for vessel in distress.

*Clause 234.*—This clause seeks to provide for the rights of salvors to payment for the services rendered by him to salvage operations in the event of refusal of payments by the owner or master of vessel or owner of any other property in danger and enlists the criteria, circumstances and conditions for claiming rewards and maritime lien by the salvor.

*Clause 235.*—This clause seeks to provide for settlement of disputes relating to claims under the provisions of Part XI and empowers the High Court to determine the costs to be paid and to issue necessary directions for such payments if deemed fit and fair, after receipt of application from either of disputing party.

*Clause 236.*—This clause seeks to specify the time limit of two years from the date of completion of salvage operations for raising claims and action thereof by all concerned.

*Clause 237.*—This clause seeks to provide that nothing in Chapter II of Part XI shall affect any treaty or arrangement with any foreign country to which Indian is a party with reference to the disposal of wrecks on their respective coasts or the provisions of section 29

of the Indian Ports Act, 1908 or any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

*Clause 238.*—This clause seeks to empower the Central Government to make rules to carry out the provisions contained in Part XI.

*Clause 239.*—This clause seeks to provide for the application of Part XII to all vessels including vessels other than Indian vessels.

*Clause 240.*—This clause seeks to direct that any vessel engaged in coastal trade or exploration or exploitation or research in coastal waters of India shall require a licence and stipulates that no vessel chartered by an Indian citizen, company or cooperative society to be taken to a port or place within India or outside India without licence granted by the Director-General and the Indian controlled tonnage may also be granted licence subject to certain conditions. It further provides that the Central Government shall have the power to exempt any class of vessel by general or special order from the provision of this clause.

*Clause 241.*—This clause seeks to empower the Director-General to revoke and modify the licence after giving reasonable hearing to the person and provides that in case the licence ceases to be valid, the person to whom it was granted shall return it back to the Director-General without any delay.

*Clause 242.*—This clause seeks to direct that no port clearance shall be given by the proper officer to the owner, master or agent of a foreign vessel unless such a licence is produced which is issued under this Part.

*Clause 243.*—This clause seeks to empower the Director-General, in public interest or in the interest of Indian shipping if it is necessary, to give order in writing or notice for matters stipulated therein and also empowers the Central Government in public interest to ban any vessel from entering into India, anchorage or offshore facility in India.

*Clause 244.*—This clause seeks to empower the Central Government to protect the interest of Indian shipping from undue foreign intervention and stipulates certain measures by a foreign country which infringes the jurisdiction of India and which can be brought to notice of the Central Government by the Indian citizen carrying business in that country and the Central Government may in turn give order in writing prohibiting Indian citizens from complying with such measure. It further provides that the Central Government may by order in writing refuse to give commercial information to any court or authority of a foreign country and prohibits any person from complying with such an order by foreign authority or court subject to the conditions as specified in the said order.

*Clause 245.*—This clause seeks to empower the Central Government to make rules for carrying out the provisions contained in Part XII.

*Clause 246.*—This clause seeks to provide for application of Part XIII. It applies to sailing vessel, fishing vessel, vessel without mechanical of propulsion and vessel whose net tonnage is less than fifteen and engaged solely in coasting trade of India and the extent to which other provisions in the Bill to apply to such vessel.

*Clause 247.*—This clause seeks to empower the Director-General to take a decision on whether the vessel falls under Part XIII or not and makes his decision thereon as final.

*Clause 248.*—This clause seeks to provide by rules the safety, security and pollution prevention requirements and ensure that these requirements are met and to prohibit the vessels from proceeding to sea, unless they comply with the provisions.

*Clause 249.*—This clause seeks to put an obligation on the vessels to have all certificates specified in Part XII, before proceeding to sea and the manner in which safety certificates are to be issued and the power of Government to provide of by rules for this purpose and the period validity of certificates.

*Clause 250.*—This clause seeks to impose an obligation on the maintenance of the statement or cause to be maintained a statement about the crew of the vessel and to keep the record of the changes in crew and its communication to the shipping master.

*Clause 251.*—This clause seeks to mandate that whenever cargo is jettisoned from vessel, notice shall be given to proper officer appointed for this purpose, and empower the proper officer to conduct an enquiry.

*Clause 252.*—This clause seeks to provide for detaining a vessel while attempting to proceed to sea in overloaded condition or carrying passengers in excess of the certified capacity and empowers the proper officer to board the vessel whenever necessary and obligates the master, owner and every other person to provide all reasonable facilities for the survey or audit.

*Clause 253.*—This clause seeks to provide with the power to detain the vessel which is unseaworthy or likely to pose a threat to the security or the environment. It provides for the liability of the person in charge of the vessel in respect of such unseaworthiness or threat to the security on Indian coasts or offshore installations under any other provisions of this Bill.

*Clause 254.*—This clause seeks to empower the Central Government to exempt vessels from the applicable requirements, if it is satisfied that the requirements have been substantially complied with or that compliance with the requirement is or ought to be dispensed with in the circumstances of the case.

*Clause 255.*—This clause seeks to empower the Central Government to make rules for carrying out the provisions contained in Part XIII.

*Clause 256.*—This clause seeks to provide the penalties for the contravention of the provisions as specified therein. It empowers the Principal Officer to impose the monetary penalty, against which an appeal shall lie to the Director-General. It further provides that the competency to sentence the imprisonment has been vested with the Court only and the table, *inter alia*, indicates the contravention made and the penalty to be imposed and specifying the competent authority for imposing such penalty.

*Clause 257.*—This clause seeks to provide for that any person committing any offence under the Bill may be tried at a place in which he may be found, or in any Court which the Central Government may, by notification, direct in this behalf, or in any Court in which he might be tried in any other law for time being in force.

*Clause 258.*—This clause seeks to empower the Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorised by or under this Bill on any person convicted of an offence under this enactment or any rules or regulations made thereunder.

*Clause 259.*—This clause seeks to provide that the report of the Proper Officer is required for enforcement of penalties, under section 256, against the masters or owners of special trade passenger vessels.

*Clause 260.*—This clause seeks to provide that in case the person committing an offence under this Bill is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of its business, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly and if such person proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence, such person need not to be subject to punishment and at the same time if it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect, such person shall be punished accordingly as per provisions.

*Clause 261.*—This clause seeks to provide for depositions to be received in evidence when witness cannot be produced. It provides that for the purpose of evidence during the

legal proceedings, if the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused, as the case may be, after being allowed a reasonable opportunity for so doing, does not produce the witness before any court or Metropolitan Magistrate or a Judicial Magistrate of the first class or person authorised, any deposition previously made by the witness in relation to the same subject-matter before any court or Metropolitan Magistrate or a Judicial Magistrate of the first class in any other place in India or, if elsewhere, before any Indian consular officer, shall be admissible in evidence. It also provides that such deposition need to be authenticated by the signature of the presiding officer of any court or Metropolitan Magistrate or a Judicial Magistrate of the first class or consular officer, before whom it is made and also be subject to certain other conditions as enumerated therein.

*Clause 262.*—This clause seeks to empower the High Court to detain a foreign vessel that has caused the damage caused to property belonging to the Government or to any citizen of India or a company, when such vessel is found within Indian jurisdiction and empowers the proper officer to detain such vessel if it is expected that the vessel may depart and allow the application to be made by any person to High Court for detention of the vessel.

*Clause 263.*—This clause seeks to provide that when an order for the detention of the vessel has been made, any commissioned officer of the Indian Navy or Indian Coast Guard or any port officer, pilot, harbour master, conservator of port or customs collector may detain the vessel under instructions of proper officer and any contravention of detention order or notice is an offence.

*Clause 264.*—This clause seeks to provide that if an order for the payment of any wages or other sums of money has been made but has not been paid, then such payment may be levied by distress and sale of the movable property of the person directed to pay the same under a warrant to be issued for that purpose by such a court or Metropolitan Magistrate or a Judicial Magistrate of the first class.

*Clause 265.*—This clause seeks to provide that in case any foreign vessel is detained under this Bill, or if any proceeding is taken under this Bill against the master, owner or agent of any such vessel, notice shall forthwith be served on the consular officer of the country in which the vessel is registered, at or nearest to the port where the vessel is for the time being, specifying the grounds of such detention or the proceedings.

*Clause 266.*—This clause seeks to provide the manner of service of documents on any person, such as, personal delivery, leaving the same at his last place of abode, or by post and if such delivery is to be made to the master of a vessel then such document may be left on board with person in command of the vessel and if no master or owner or agent is there, it may be affixing to the master of the vessel or at a suitable place on the bridge.

*Clause 267.*—This clause seeks to put responsibility on the master of a vessel to inform about birth, death, and cause of death or any other relevant details that the Central Government may specify at the next port or place of call.

*Clause 268.*—This clause seeks to put responsibility on the master of Indian vessel to inform of any person missing or died on board to the Director-General and the proper officer of the port or the next port of call. It provides that on receiving the information, the proper officer would inquire into the causes of death and make in the official log book an endorsement to that effect whether the statement of cause of death is true or not or contrary to the result of inquiry. It further provides that if it appears to the proper officer that the death occurred due to violence or other improper means, shall, report to the Director-General and in case of emergency, shall take immediate steps for bringing the offender into trial.

*Clause 269.*—This clause seeks to provide for certain persons mentioned therein to be public servants within the meaning of section 21 of the Indian Penal Code.

*Clause 270.*—This clause seeks to empower an officer conducting investigation and inquiry to board a vessel to inspect or detain a vessel, etc., and prohibits any person to

hinder or obstruct any officer or person referred above from going on board any vessel or otherwise impede him in execution of his duties or exercise his powers.

*Clause 271.*—This clause seeks to empower the Central Government to permit such alternate provisions and arrangements in order to meet the requirements of the convention through a notice.

*Clause 272.*—This clause seeks to empower the Central Government to give permission for a nuclear ship to proceed to sea and the Central Government by general or special order give such direction to the registered owner of the vessel for taking security measure as is necessary.

*Clause 273.*—This clause seeks to exempt the application of this Bill to vessels belonging to Government or to any class of such vessels.

*Clause 274.*—This clause seeks to empower the Central Government by order, to impose or exempt any vessel or tinal or seafarer or any class thereof, from any specified requirement contained in or prescribed in pursuance of this Bill or dispense with the observance of any such requirements in the case of any vessel or tinal or seafarer, or any class thereof if it is satisfied that the requirements have been substantially complied with or that compliance with the requirement is or ought to be dispensed with in the circumstances of the case subject to restriction which is prohibited by the Safety Convention or Pollution Prevention Convention and makes it an offence for breach of any such condition.

*Clause 275.*—This clause seeks to empower the Central Government to make rules generally to carry out the provisions of the Bill.

*Clause 276.*—This clause seeks to provide for the publication of rules in the Official Gazette subject to previous publication and also makes the breach of it as punishable. It further provides that every rule made and every notification issued by the Central Government shall be required to be laid before each House of Parliament.

*Clause 277.*—This clause seeks to protect any person acting in good faith from any suit or other legal proceedings.

*Clause 278.*—This clause seeks to empower the Central Government to enter into agreement with other countries or organisations for effective implementation of the provisions of the Bill.

*Clause 279.*— This clause empowers the Central Government to make, by order published in the Official Gazette, provisions for removal of difficulties in giving effect to the provisions of the Bill and restrict the power to make such order within a period of three years and mandates every such order issued under this clause to be laid before each House of Parliament.

*Clause 280.*—This clause seeks to repeal the Merchant Shipping Act, 1958 and the Coasting Vessel Act, 1838. It provides for saving of various actions undertaken under the said enactments as specified therein.

## FINANCIAL MEMORANDUM

*Clause 4* of the Bill provides for establishment of the National Shipping Board by the Central Government to advise it on matters relating to Indian shipping including the development thereof.

*Clause 5* of the Bill provides for constitution of Seafarers Welfare Board by the Central Government for advising it on the measures for promoting the welfare of the seafarers.

*Clause 6* of the Bill empowers the Central Government to appoint the Director-General of Shipping for discharging the powers, authorities or duties under the provisions of the Bill.

*Clause 7* of the Bill empowers the Central Government to appoint Surveyors at such port or place as it may consider necessary.

*Clause 8* of the Bill empowers the Central Government to appoint Radio Inspectors relating to radio communication.

*Clause 9* of the Bill empowers the Central Government to establish and maintain office of Mercantile Marine Department in the ports of Mumbai, Kolkatta, Chennai, Kochi, Kandla and such other ports or places for the administration of the provisions of the Bill.

*Clause 10* of the Bill empowers the Central Government to establish Shipping Office and appoint shipping master and other officers as it may consider necessary.

*Clause 11* of the Bill empowers the Central Government to establish at every port a seafarer's employment office and shall appoint thereto a Director and as many Deputy Directors and Assistant Directors as it may consider necessary.

*Clause 12* of the Bill empowers the Central Government to appoint Seafarers Welfare Officer in any port or place outside India.

*Clause 54* of the Bill provides for fee to be paid to the examiner appointed to examine the qualification of persons desirous of certificate of competency or certificate of proficiency.

*Clause 115* of the Bill provides for making arrangements for search and rescue at sea and establishment of rescue coordination centres and sub-centres.

*Clause 135* of the Bill empowers the port authority to impose suitable charge for setting-up facilities to receive wastes, facilities for handling, treatment and disposal of wastes generated on ships in an environmentally sound manner by public sector ports.

The expenditure on establishing the National Shipping Board, constituting the Seafarer Welfare Board, appointing the Director-General of Shipping, the Surveyors, the Radio Inspectors, establishing and maintaining office of the Mercantile Marine Departments, establishing Shipping Office and appointing shipping master and other officers, establishing at every port a seafarer's employment office and appointing Director, Deputy Directors and Assistant Directors, appointing the Seafarers Welfare Officer, fee to be paid to the examiners will be met out of the existing budgetary allocations of the Ministry of Shipping. The arrangements for search and rescue at sea and the establishment of rescue coordination centres and sub-centres are already in place and do not involve any additional expenditure. The expenditure of setting-up facilities to receive wastes, reception facilities and the facilities for handling, treatment and disposal of such wastes in an environmentally sound manner by public sector ports, or places which have an interface with ships, will be met from their own budget and charges imposed on ships for providing such facilities.

The Bill, therefore, if enacted, will not involve any additional expenditure of recurring or non-recurring nature.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (7) of clause 4 of the Bill empowers the Central Government to make rules for the matters relating to the term of office of members of the Shipping Board; the manner of filling vacancies in the Shipping Board; the travelling allowances and other allowances payable to the members of the Shipping Board; and the manner of appointment of officers and other employees of the Shipping Board and the terms and conditions of their service.

2. Sub-clause (2) of clause 5 of the Bill empowers the Central Government to make rules for the matters relating to the composition of the Welfare Board and the term of office of members thereof; the procedure to be followed in the conduct of business by the Welfare Board; the travelling and other allowances payable to the members of the Welfare Board; the rate of levy of fee payable by owners of vessels for the purposes of providing amenities to seafarer and for taking other measures for the welfare of the seafarer; the procedure by which any such fee may be collected or recovered and the manner in which the proceeds of such fees, after deduction of the cost of collection, shall be utilised for the purpose specified in sub-clause (d).

3. Clause 50 of the Bill empowers the Central Government to make rules to carry out the purposes of the provisions of the Part III of the Bill. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, include the conditions for registration of an Indian vessel; the manner of keeping the register book and making entries therein and maintenance of the records of vessels registered under this Bill; the form and manner of making application for registry of an Indian vessel; the other particulars descriptive of the identity of vessel; the manner of making endorsement; the procedure for issuing a provisional certificate of registry; the form of mortgage; the form of instrument effecting the transfer; the manner of description of the name, call sign and official number of Indian vessel; the fee for inspection of register book and a certified copy of any entry of the register book; the procedure for registration of vessel chartered on bareboat charter-cum-demise and any other matter which is required to be or may be made.

4. Clause 59 of the Bill empowers the Central Government to make rules to carry out the purposes of the provisions of Part IV of the Bill. Sub-clause (2) specifies *inter alia*, the manning scale of seafarers; the different manning scales in relation to different categories of vessels, areas and type of operations; the requirement and grant of certificates, its form fees and its valid period and the manner of keeping the copies of certificates; the manner of conducting examination for certificate of competency or proficiency, the fee for grant of such certificate and any other matter which is required to be or may be made.

5. Sub-clause (1) of clause 62 of the Bill empowers the Central Government to make rules for classification of seafarers into different categories, the minimum manning scale of seafarers of such categories and the different scales of different classes to ships.

6. Clause 68 of the Bill empowers the Central Government to make rules, having regard to the provisions of the Maritime Labour Convention, for the matters relating to the seafarer's employment officer. These matters, include the payment of wages; hours of work and hours of rest; leave entitlement; accommodation, recreational facilities, food and catering; health protection, medical facilities, welfare and social security protection.

7. Sub-clause (8) of clause 86 of the Bill empowers the Central Government to make rules with respect to relief, maintenance and return to the proper port of a seafarer found in distress; the circumstances in which and the conditions subject to which the seafarer

may be relieved; and to carry out the provisions of Part V of the Bill relating to distressed seafarer.

8. Clause 109 of the Bill empowers the Central Government to make rules to carry out the provisions of Part V of the Bill. Sub-clause (2) enumerates the matters in respect of which such rules may be made. These matters, include the continuous discharge certificate and seafarers identity documents; other function and duties of the seafarers employment offices; the form, manner of issue of continuous discharge certificates; seafarers identity documents and fees for such certificates and documents; the qualifications of seafarers; the manner of discharge from service of seafarers; the restrictions and conditions for utilisation of any amount deposited with or recovered from shipping master; the form and manner of keeping logbook and any other matter which is required to be or may be made.

9. Clause 128 of the Bill empowers the Central Government to make rules for safety and security requirements applicable to vessel, company or port facility under Part VI of the Bill. Sub-clause (2) thereof enumerates the matters in respect of which such rules may be made. These matters, include the safety and security requirements for different classes of vessels; the manner of reporting the particulars of incidents and the authority to whom such particulars to be reported; the communication equipment, distress and safety equipment to be equipped and maintained, and the certified operators to be provided; the requirements for safety or security management; the provisions with regard to insurance, classification and condition of vessel; any other matter which is required to be or may be made.

10. Sub-clause (1) of clause 131 of the Bill empowers the Central Government to make rules for requiring Indian vessel to be fitted with such equipment and to comply with such requirements relating to construction, survey of equipment and structure of such vessel and specifying conditions, prior to issuing a certificate under Part VII of the Bill.

11. Clause 138 of the Bill empowers the Central Government, having regard to the Pollution prevention convention, to make rules to carry out the purposes of Part VII of the Bill. Sub-clause (2) enumerates the matters in respect of which such rules may be made. These matters, include the conditions to comply the provisions of the conventions; the pollution prevention requirements; the form and manner and other matter relating to maintenance of record book; the reception facility, surveillance, supervision and guidance; the manner of reporting the incidents to the authority to whom the incident to be reported and any other matter which is required to be or may be made.

12. Clause 143 of the Bill empowers the Central Government to make rules for recognition of a certificate issued under a Convention in respect of vessel other than Indian vessel by the government of the country to which the vessel belongs.

13. Clause 145 of the Bill empowers the Central Government to make rules to carry out the purposes of Part VIII of the Bill. Sub-clause (2) enumerates the matters in respect of which such rules may be made. These matters, include the requirements for verification of vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal; the manner of requirements and the manner of survey, audit and certification of vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal and modification, revocation, suspension, cancellation or surrender of the certificates and documents; the certificates to be possessed by a vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities or terminal; the manner of compliance for survey, audit and certification; the requirement and the manner of survey, audit and certification of different classes of vessel, company, port facility, shipyard, ship breaking yard, ship repair unit, offshore facilities; and any other matter which is required to be or may be made.

14. Clause 166 of the Bill empowers the Central Government having regard to the LLMC Convention to make rules to carry out the purposes of Chapter II of Part IX of the Bill. Sub-clause (2) provides that the rules may be made in matters relating to the limits and liability in cases where the LLMC Convention not applicable; the amount of limit of liability of the owner for loss of life or personal injury to passengers of a ship and any other matter which is required to be made or may be made.

15. Clause 181 of the Bill empowers the Central Government to make rules to carry out the provisions of Chapter III of Part IX of the Bill. Sub-clause (2) provides that the rules may be made in matters relating to the form of certificate and particulars to be given thereto; the fees to be charged for issue of certificates and any other matter which is required to be or may be made.

16. Clause 196 of the Bill empowers the Central Government to make rules to carry out the provisions of Chapter IV of Part IX of the Bill. Sub-clause (2) provides that the rules may be made in matters relating to the limits of liability of the insurer or other person providing financial security; the form of certificate, the particulars containing therein with the conditions and fee for issue of certificate; the renewal of certificate and fees therefor and any other matter which is required to be or may be made.

17. Clause 206 of the Bill empowers the Central Government to make rules to carry out the provisions of the Fund Convention.

18. Clause 238 of the Bill empowers the Central Government to make rules to carry out the provisions of Part XI of the Bill. Sub-clause (2) enumerates the matters in respect of which such rules may be made. These are the matters relating to manner of marking wreck; the time limit to remove the wreck; the other financial security; the measures to be taken to protect the coastline or related interest from pollution or threat of pollution; the criteria for calming rewards, the manner of fixing rewards, the payment of special compensation, the apportionment of payment amongst salvors, the salvage of persons, the payment under the contract, the payment for additional services not covered under the contract and the effect of misconduct of salvors on reward or payment and any other matter which is required to be or may be made.

19. Clause 245 of the Bill empowers the Central Government to make rules to carry out the provisions of Part XII of the Bill. Sub-clause (2) thereof enumerates the matters in respect of which such rules may be made. These matters, *inter alia*, include the form of licence and the valid period of such licence and any other matters which is required to be or may be made.

20. Clause 255 of the Bill empowers the Central Government to make rules to carry out the provisions of Part XIII of the Bill. Sub-clause (2) provides the rules may be made in matters relating to the scale of manning and fittings material, appliance and apparatus to be carried on board by Indian vessels; the certificates required to ply or proceed to sea by a vessel; the manner of issuance of grant of certificate and the period for which the said certificate shall be in force; the form for maintaining a statement of the crew of the vessel and any other matter which is required to be or may be made.

21. Clause 275 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill in respect of matters contained elsewhere in the Bill.

22. Clause 276 of the Bill provides for the rules to be published in the Official Gazette subject to previous publication and every rules made or notification issued under this Bill shall be laid before each House of Parliament.

23. Clause 279 of the Bill empowers the Central Government to make an order published in the Official Gazette, for removal of difficulties in giving effect to the

provisions of this Bill, and every such order issued shall be laid before each House of Parliament.

24. The matters in respect of which rules may be made or notifications to be issued under the proposed legislation are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers is, therefore, of a normal character.

## BILL NO. 328 OF 2016

*A Bill to provide for regulation, operation and planning of Major Ports in India and to vest the administration, control and management of such ports upon the Boards of Major Port Authorities and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

**1.** (1) This Act may be called the Major Port Authorities Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It shall, in the first instance, apply to the Major Ports of Chennai, Cochin, Jawaharlal Nehru Port, Kandla, Kolkata, Mumbai, New Mangalore, Mormugao, Paradip, V.O. Chidambaranar and Visakhapatnam and to such other Major Ports with effect from such date as the Central Government may notify.

**2.** (1) In this Act, unless the context otherwise requires,—

(a) “Adjudicatory Board” means the Board constituted by the Central Government under section 51;

Short title,  
commencement  
and application.

Definitions.

(b) “Board” means the Board of Major Port Authority constituted by the Central Government in accordance with sub-section (1) of section 3 for each Major Port under this Act;

(c) “capital reserves” for the purpose of this Act, shall mean the total of the revenue excluding the reserves set forth in sub-section (1) of section 40 and the value of the current assets of the Board in the preceding financial year;

(d) “Chairperson” means the Chairperson of the Board appointed under sub-section (1) of section 4;

(e) “dock” includes all basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, slipways, gridirons, moorings, transit-sheds, warehouses, tramways, railways and other works and things appertaining to any dock, and also the portion of the sea enclosed or protected by the arms or groynes of a harbour;

(f) “foreshore”, in relation to a Major Port, means the area between the high-water mark and the low-water mark relating to that Major Port;

(g) “goods” includes livestock and every kind of movable property;

(h) “grave emergency” means a condition as determined by the Central Government wherein the Board is unable to discharge its duties appropriately and includes acts of sedition, non-performance, unlawful and illegal actions, negligence and financial misappropriation;

(i) “high-water mark”, in relation to a Major Port, means a line drawn through the highest points reached by ordinary spring-tides at any season of the year at that Major Port;

(j) “immovable property” includes wharfage-rights and all other rights exercisable on, over, or in respect of, any land, wharf, dock or pier;

(k) “Independent Member” means a Member of the Board appointed under sub-section (3) of section 4;

(l) “Indian Ports Act” means the Indian Ports Act, 1908;

(m) “land” includes the bed of the sea or river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth;

(n) “low-water mark”, in relation to a Major Port, means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year at that Major Port;

(o) “Major Port” or ‘Major Port Authority’ means the Major Port as defined in clause (8) of section 3 of the Indian Ports Act;

(p) “Major Port approaches”, in relation to a Major Port, means those parts of the navigable rivers and channels leading to the Major Port, where the Indian Ports Act is in force;

(q) “master”, in relation to any vessel or any aircraft making use of any Major Port, means any person having for the time being the charge or control of such vessel or such aircraft, as the case may be, except a pilot, harbour master, assistant harbour master, dock master or berthing master of the Major Port;

(r) “Member” means the Member of the Board appointed under section 4;

(s) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(t) “owner”,—

(i) in relation to goods, includes any consignor, consignee, shipper or agent for the sale, custody, loading or unloading of such goods; and

(ii) in relation to any vessel or any aircraft making use of any Major Port, includes any part-owner, charterer, consignee, or mortgagee in possession thereof;

(u) “pier” includes any stage, stairs, landing place, hard, jetty, floating barge, transhipper or pontoon, and any bridges or other works connected therewith.

*Explanation.*—For the purposes of this clause, the term “transhipper” means a floating craft or vessel, whether dumb or self-propelled, on which gears are provided for discharging cargo from a barge or wharf and loading it into a ship;

(v) “port assets” means any asset within the port limits including land, movable or immovable property or any other property, whether tangible or intangible, owned by or vested with the Board through the Central Government or the State Government, as the case may be;

(w) “port limits” in relation to a Major Port, means the limits including any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels or for the improvement, maintenance or good governance of the Major Port and its approaches whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water mark and the area of such Major Port as may be determined by the Central Government by way of notification from time to time;

(x) “port security” means the debentures, bonds or stock certificates issued by the Board in respect of any loan contracted by it under the provisions of this Act or issued by any other Authority for the payment of which the Board is liable under this Act;

(y) “prescribed” means prescribed by the rules made under this Act;

(z) “Public Private Partnership project” means the projects taken up through a concession contract entered into by the Board of Major Port Authority under sub-section (1) of section 21 based on a revenue or royalty sharing basis;

(za) “rate” includes any toll, due, rent, rate, fee, or charge leviable under this Act;

(zb) “regulations” means the regulations made by the Board under this Act;

(zc) “vessel” includes anything made for the conveyance, by water, of human beings or of goods and a caisson;

(zd) “wharf” includes any wall or stage and any part of the land or foreshore that may be used for loading or unloading goods, or for the embarkation or disembarkation of passengers and any wall enclosing or adjoining the same.

(2) Words and expression used but not defined in this Act and defined in the Indian Ports Act shall have the same meanings respectively assigned to them in that Act.

## CHAPTER II

### BOARD OF MAJOR PORT AUTHORITY

3. (1) The Central Government shall, within a period of ninety days from the date of commencement of this Act, by notification, in respect of each Major Port, constitute a Board called the Board of Major Port Authority for that Port which shall consist of the following Members, namely:—

Constitution and composition of Board of Major Port Authority.

- (a) a Chairperson;
- (b) a Deputy Chairperson;
- (c) one Member each from the—
  - (i) Concerned State Government in which the Major Port is situated;
  - (ii) Ministry of Railways;
  - (iii) Ministry of Defence; and
  - (iv) Customs, Department of Revenue;
- (d) not less than three and not exceeding four Independent Members;
- (e) one Member not below the rank of Director nominated by the Central Government, *ex officio*; and
- (f) one Member representing the interest of the employees of the Major Port Authority:

Provided that until the constitution of the Board of Major Port Authority, the Board of Trustees constituted under section 3 of the Major Port Trust Act, 1963 shall continue to function and shall cease to exist immediately after the constitution of the Board under this Act. 38 of 1963.

(2) The Board of each Major Port Authority constituted under this Act shall be a permanent body having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

Qualifications  
of Chairperson,  
Deputy  
Chairperson  
and Members  
of Board.

4. (1) The Chairperson and Deputy Chairperson of the Board shall be appointed by the Central Government on the recommendation of a Select Committee consisting of such persons and in such manner, as may be prescribed.

(2) The Members of the Board as mentioned in clause (c) of sub-section (3) of section 3 shall be appointed by the Board in such manner as may be prescribed from amongst persons having adequate knowledge and professional experience of not less than fifteen years in shipping, marine, management or administration.

(3) The qualifications, experience and manner of appointment of Independent Members shall be such as may be prescribed.

(4) The appointment of the Member referred to in clause (f) of sub-section (3) of section 3 shall be made by the Central Government, by notification, from amongst the persons who in the opinion of the Central Government are capable of representing the interest of the employees in the Major Port Authority.

(5) Every person nominated or appointed to the office of the Chairperson or the Member of the Board, shall, within thirty days of his nomination or appointment, furnish to the said Board his consent and a declaration that he is not disqualified or ineligible to hold such office.

Removal of  
Chairperson,  
Deputy  
Chairperson  
and Member  
from office in  
certain  
circumstances.

5. (1) A person shall not be eligible for appointment or to continue as a Member of the Board, if —

- (a) he has been adjudged as an insolvent; or
- (b) he has become physically or mentally incapable of acting as a Member; or
- (c) he has been convicted of an offence, involving moral turpitude; or
- (d) he holds an office of profit or the office of the Functional Head in the Major Port Authority or the Board of that Authority; or

(e) he has made a false declaration under sub-section (5) of section 4; or

(f) he has been removed or dismissed from the service of a Major Port Authority, Government or a body corporate owned or controlled by the Central Government or the State Government; or

(g) an order disqualifying him for appointment as a Member has been passed by a court or tribunal and such order is in force.

(2) The Chairperson or Deputy Chairperson or any other Member shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity or in contravention of the provisions of section 7 after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Member ought on any such ground to be removed.

(3) The Central Government may suspend the Chairperson or Deputy Chairperson or any other Member in respect of whom an inquiry under sub-section (2) is being initiated or pending till the Central Government has passed an order on receipt of the report of the inquiry.

6. (1) The Chairperson and the Deputy Chairperson shall hold office for a term not exceeding five years from the date on which they enter upon their office or until they attain the age of superannuation, whichever is earlier.

Term of office of Chairperson, Deputy Chairperson and Members.

(2) Subject to the provisions of this Act, a person appointed as a Member of the Board by virtue of an office under clause (c) of sub-section (3) of section 3 shall continue to be a Member of the Board so long as he continues to hold that office.

(3) An Independent Member shall hold office for a term of three years from the date of his appointment or up to the age of seventy years, whichever is earlier and shall be eligible for re-appointment:

Provided that no Independent Member shall hold office for more than two consecutive terms:

Provided further that an Independent Member shall not, during the said period of three years, be appointed to or be associated with any Major Port Authority in any other capacity, either directly or indirectly.

(4) The Member appointed under clause (f) of sub-section (3) of section 3 shall hold office for a term of three years.

7. Before appointing any person as a Chairperson or Deputy Chairperson or Member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson, Deputy Chairperson or Member:

Disclosure of interest.

Provided that where any Member who is not so concerned or interested at the time of occupying such office, he shall, if he becomes concerned or interested afterwards, disclose his concern or interest forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested and resign forthwith.

8. The Chairperson, Deputy Chairperson and Members may, by notice in writing under their hand addressed to the Central Government, resign their office and on such resignation being accepted by that Government, shall be deemed to have vacated their office.

Resignation of Members.

Removal from office of Chairperson, Deputy Chairperson and Members.

**9.** The Central Government shall remove the Chairperson, Deputy Chairperson or any Member, if he—

- (a) becomes subject to any of the disqualification mentioned in section 5; or
- (b) has, in the opinion of the Central Government, ceased to represent the interest by virtue of which he was appointed or elected; or
- (c) refuses to act or becomes incapable or acting; or
- (d) is, without the permission of the Board previously obtained, absent from six consecutive ordinary meetings of the Board; or
- (e) is absent from the meetings of the Board for a period exceeding six consecutive months; or
- (f) acts in contravention of the provisions of this Act.

Fees and honorarium payable to Members.

**10.** The Members appointed under clauses (c), (d) and (f) of sub-section (3) of section 3, shall be paid such honorarium as may be prescribed.

Powers and duties of Chairperson, Deputy Chairperson and Members.

**11.** The Chairperson and in his absence, the Deputy Chairperson shall have powers of general superintendence and directions in the conduct of affairs of the Major Port Authority and he shall, in addition to presiding over the meetings of the Board, exercise supervision and control over the acts of all employees of the Major Port Authority in matters of executive administration and in matters concerning the accounts and records of such Board.

Meetings of Board.

**12.** (1) The Board shall meet at such places and times, and shall follow such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings), as may be specified by the regulations.

(2) If the Chairperson for any reason, is unable to attend a meeting of the Board, the Deputy Chairperson and in the absence of such Deputy Chairperson, any other Member chosen by the Members present amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be—

(a) decided by a majority of votes by the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote;

(b) dealt with as expeditiously as possible and the Board shall dispose of the same within a period of sixty days from the date of receipt of the application:

Provided that where any such application could not be disposed of within the said period of sixty days, the Board shall record its reasons in writing for not disposing of the application within that period.

Appointment of committees.

**13.** (1) A Board may, from time to time, from amongst its Members and any other person, constitute committees for the purpose of discharging such of its functions as may be delegated to such committee or committees by the Board.

(2) The committee or committees constituted under this section shall meet at such time and at such places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum) as may be provided by regulations made under this Act.

Delegation of powers.

**14.** The Board may, for the purpose of discharging of its powers, functions and duties, by general or special order in writing, specify—

- (a) the powers and duties conferred or imposed upon the Board by or under this Act which may also be exercised or performed by the Chairperson; and

(b) the powers and duties conferred or imposed on the Chairperson by or under this Act, which may also be exercised or performed by the Deputy Chairperson or any officer or officers of the Board and the conditions and restrictions, if any, subject to which the powers and duties may be exercised and performed:

Provided that any powers and duties conferred or imposed upon the Deputy Chairperson or any officer of the Board under this clause (b) shall be exercised and performed by him subject to the supervision and control of the Chairperson.

**15.** No act or proceedings of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Board; or

(b) any defect in the appointment of a person acting as a Member of such Board;

or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Vacancies, etc., not to invalidate proceedings of Board.

**16. (1)** The power of appointing any person to any Post, whether temporary or permanent shall—

Power to make appointments.

(a) in the case of a post—

(i) the incumbent of which is to be regarded as the Head of a department; or

(ii) to which such incumbent is to be appointed; or

(iii) the maximum of the pay scale of which (exclusive of allowances) exceeds such amount as the Central Government may, by notification in the Official Gazette, fix,

be exercisable by the Central Government after consultation with the Chairperson;

(b) in the case of any other post, be exercisable by the Chairperson or by such authority as may be specified by regulations:

Provided that no person shall be appointed as a pilot at any port, who is not for the time being authorised by the Central Government under the provisions of the Indian Ports Act to pilot vessels at that or any other port.

(2) The Central Government may, by order, specify any post the incumbent of which shall, for the purposes of this Act, be regarded as the Head of a department.

### CHAPTER III

#### MANAGEMENT AND ADMINISTRATION

##### A. STAFF OF MAJOR PORT AUTHORITY

**17.** The Board shall after every five years prepare and submit to the Central Government a list of the employees of the Board of Major Port Authority indicating therein the designations and grades of employees and the salaries, fees and allowances which are proposed to be paid to them.

List of staff of Board.

##### B. PROPERTY AND CONTRACTS

**18.** On and from the date of constitution of the Board—

(a) the Board of the Major Port Authority shall be the successor of the Board of Trustees constituted under the Major Port Trusts Act, 1963;

(b) all the assets and liabilities of the Board of Trustees shall stand transferred to, and vested in, the Board.

Board to be deemed as successor of Board of Trustees of Major Port.

*Explanation.*—The assets of the Board of Trustees shall be deemed to include all rights and powers, all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of the Board of Trustees and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(c) without prejudice to the provisions of clause (a), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board of Trustees immediately before that date, for or in connection with the purpose of the said Board of Trustees, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Board;

(d) all sums of money due to the Board of Trustees immediately before that date shall be deemed to be due to the Board;

(e) all suits and other legal proceedings instituted or which could have been instituted by or against the Board of Trustees immediately before that date may be continued or may be instituted by or against the Board;

(f) every employee serving under the Board of Trustees of the Major Port immediately before such date shall become an employee of the Board, shall hold his office or service therein by the same tenure and upon the same terms and conditions of service as he would have held the same if the Board had not been established and shall continue to do so unless and until his employment in the Board is terminated or until his tenure, remuneration or terms and conditions of service are duly altered by the Board:

Provided that the tenure, remuneration and terms and conditions of service of any such employee shall not be altered to his disadvantage without the previous sanction of the Central Government.

Usage of property, assets, etc., by Board.

**19.** (1) The Board of each Major Port shall be entitled to use its property, assets and funds in such manner and for such purposes as it may deem fit for the benefit of that Major Port.

(2) All Port assets under the ownership of the Board or vested with the Board through the Central Government shall be used and developed as per the regulations made by the Board in that behalf and to the exclusion of any municipal, local or Government regulation:

Provided that any contract or arrangement by the Board for sale of land or immovable property or for lease of land or immovable property for port related use for a term exceeding forty years and for any purpose other than the purposes specified in section 22 for a term exceeding twenty years shall be subject to the prior approval of the Central Government:

Provided further that the tenure for lease of land or immovable property for Public Private Partnership projects by the Board shall be subject to the policy notified by the Central Government in respect of such Public Private Partnership projects.

(3) The Board of each Major Port may erect, construct or build such civil structures within the port limits for port development or improving commerce and trade in national interest for which no regulatory license or approval from the State authorities shall be required, unless so mandated by the Central Government.

Procedure when immovable property cannot be acquired by agreement.

**20.** Where any immovable property is required for the purposes of the Board, the Central Government or, as the case may be, the State Government may, at the request of the Board, procure the acquisition thereof under the provisions of the Right to Fair Compensation and Transparency in Rehabilitation and Resettlement Act, 2013 or any other law for the time being in force, and on payment by the Board of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Board.

**21.** (1) The Board of each Major Port shall be competent to enter into and perform any contract necessary for the performance of its functions under this Act.

Contracts by Board.

(2) Every contract shall, on behalf of the Board of each Major Port, be made by the Chairperson or by any such officer of the Board as the Chairperson may by general or special order, authorise in this behalf and shall be sealed with the common seal of the Board.

(3) The form and manner in which any contract shall be made under this Act shall be such as may be prescribed.

#### C. PLANNING AND DEVELOPMENT

**22.** For the purposes of planning and development of the Major Port, the Board in relation to that Major Port shall have the power to make regulations, not inconsistent with the Customs Act, 1962 or any rules made thereunder, to—

Powers of Board in respect of planning and development.

(a) undertake, execute and perform such works and provide such services at or within the port limits and Major Port approaches on such terms and conditions as it may deem necessary or expedient;

(b) declare availability of the port assets at the Major Port or Major Port approaches for port related activities and services subject to such limits, conditions and restrictions as it may deem necessary or expedient;

(c) develop and provide infrastructure facilities including setting up new ports, jetties, navigational channels, dry ports and such other infrastructure in furtherance of the interest of the Major Port;

(d) take charge of the goods from the concerned owner for the purpose of performing any port related services;

(e) order, in cases of emergency or for any other reason, the master or owner or agent of any sea-going vessel, not to bring any vessel alongside of, or to remove such vessel from, any dock, berth, wharf, quay, stage, jetty or pier belonging to or under the control of the Board;

(f) permit construction and development by itself or through any person, to make, erect, fix or remove within the port limits or Major Port approaches any wharf, dock, quay, stage, jetty, pier, building or structure, erection or mooring or undertake any reclamation of foreshore within the said limits and buildings and amenities required for the residence and welfare of the employees of the Board, subject to such limits, conditions and restrictions as it may deem necessary or expedient;

(g) provide exemption or remission from payment of any rate or charge leviable on any goods or vessels or class of goods or vessels under this Act;

(h) provide any other services or amenities in respect of vessels, passengers, goods or employees;

(i) undertake, execute and perform such works, activities and studies to promote maritime education, training skill development of coastal communities, seafarers welfare and Major Port related development; and

(j) make or construct or erect within the port limits such structures, buildings, drains, roads, fences, tube-wells, in-take wells, storage facilities, warehouses, pipelines, telephone lines, communication towers, electricity supply or transmission equipment, and such other works and conveniences as the Board of each Major Port thinks proper.

## D. IMPOSITION OF RATES

Scale of rates  
for assets and  
services  
available at  
Major Port.

**23.** (1) The Board of each Major Port Authority or the committee or committees appointed in this behalf by the Board in accordance with section 13, may,—

(a) frame scale of rates at which, and a statement of conditions under which any services shall be performed or made available;

(b) frame scale of rates at which, and a statement of conditions under which, the access to and usage of the port assets may be allowed by the Board;

(c) frame consolidated scale of rates for any combination of services specified in clause (a) or for any combination of such service or services with any user or permission to use or access to any port assets as specified in clause (b);

(d) pass an order for refund of any amount overcharged by the Board in relation to the services provided to any person;

(e) pass an order for recovery of any rate or charge which is short-levied or erroneously refunded by the Board to any person under this Act;

(f) frame different scales, fees, rates and conditions for different classes of goods and vessels under this section:

Provided that the fixation and implementation of such scales, fees, rates and conditions shall—

(a) not be with retrospective effect;

(b) not be applicable for Public Private Partnership projects already awarded by the Board or the Central Government;

(c) not be in derogation with the rules made by or the directives of the Central Government in this behalf;

(d) not be inconsistent with the provisions of the Competition Act, 2002; 12 of 2003.  
and

(e) not be inconsistent with the provisions of any other law for the time being in force:

Provided further that in case of such Public Private Partnership projects, the Board may fix the reference tariff for purposes of bidding only and the concessionaire appointed under any such Public Private Partnership projects shall be free to fix the tariff based on market conditions and such other conditions as may be notified:

Provided also that the revenue share and other conditions would be as per the provisions of the specific concession agreement between the Board and the Public Private Partnership concessionaire appointed under the Public Private Partnership project.

(2) Notwithstanding anything contained in clause (b) of sub-section (1), the Board may, by auction or by inviting tenders, lease any land or shed belonging to or in its possession or occupation at a rate higher than that provided under clause (b) of sub-section (1).

Board's lien  
for rates.

**24.** (1) The Board for the amount of all rates leviable under this Act in respect of any goods and for the rent due to such Board for any buildings, plinths stacking areas, or other premises on or in which any goods may have been placed, it shall have a lien on such goods, and may seize and detain the same until such rates and rents are fully paid.

(2) The right of lien referred to in sub-section (1) shall have priority over all other liens and claims, except for general average and for ship owner's lien upon the said goods for freight and other charges where such lien exists and has been preserved in the manner

provided in sub-section (1) of section 25, and for money payable to the Central Government under any law for the time being in force relating to customs, other than by way of penalty or fine.

(3) The right of lien shall also vest with any concessionaire appointed by the Board with whom a concession contract under a Public Private Partnership project for operating any berth or terminal within the port limits has been executed by the said Board.

**25.** (1) If the master or owner of any vessel or his agent, at or before the time of landing from such vessel or any goods at any port asset belonging to or in the occupation of the Board of the Major Port, gives to such Board a notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship owner, to an amount to be mentioned in such notice, such goods shall continue to be liable to such lien to such amount.

Ship-owner's  
lien for freight  
and other  
charges.

(2) The goods shall be retained in the custody of the Board at the risk and expense of the owners of the goods until such lien is discharged and godown or storage rent shall be payable by the party entitled to such goods for the time during which they may be so retained.

(3) Upon the production, before any officer appointed by the Board in that behalf, of a document purporting to be a receipt for, or release from, the amount of such lien, executed by the person by whom or on whose behalf such notice has been given, the Board may permit such goods to be removed without regard to such lien, provided that the Board shall have used reasonable care in respect to the authenticity of such document.

52 of 1962.

**26.** (1) The Board may, after expiry of such time and in such manner as stipulated in section 48 of the Customs Act, 1962, sell any goods that have passed or placed into the custody of the Board upon landing thereof—

Sale of goods  
and application  
of sale  
proceeds in  
certain cases.

(a) if any rates payable to the Board in respect of such goods have not been paid; or

(b) if any rent payable to the Board in respect of any place on or in which such goods have been stored has not been paid; or

(c) if any lien of any ship-owner for freight or other charges of which notice has been given has not been discharged and if the person claiming such lien for freight or other charge has made to the Board an application for such sale; or

(d) if such goods are not removed by the owner or the person entitled thereto from the premises of the Board.

52 of 1962.

(2) The procedure for sale of goods under sub-section (1) and the proceeds of any such sale shall be applied in the manner as provided in section 150 of the Customs Act, 1962.

(3) Notwithstanding anything contained in this section, controlled goods may be sold at such time and in such manner as the Central Government may direct.

*Explanation.*—In this section, “controlled goods” means the goods, the price or disposal of which is regulated under any law for the time being in force.

**27.** Subject to the rules made under this Act, the Board of each Major Port shall be entitled to create specific master plan in respect of any development or infrastructure established or proposed to be established within the port limits and such master plan shall be independent of any local or State Government regulations of any authority whatsoever.

Master Plan.

**28.** (1) If the master of any vessel in respect of which any rates or penalties are payable under this Act, or under any regulations or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Board may distrain or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Board, together with such further amount as may accrue for any period during which the vessel is under distraint or arrest, is paid.

Recovery of  
rates and  
charges by  
distrain of  
vessel.

(2) In case any part of the said rates or penalties, or of the cost of the distress or arrest, or of the keeping of the same, remains unpaid for the space of fifteen days next after any such distress or arrest has been so made, the Board may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds of such sale, shall satisfy such rates or penalties and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Application to  
Adjudicatory  
Board.

**29.** Any person aggrieved by any action of the Board while exercising its powers under sections 19 to 28 (except section 25), may approach the Adjudicatory Board constituted under section 51 by filing an application before it in such form, manner and on payment of such fee, as may be prescribed.

## CHAPTER IV

### POWERS OF BOARDS OF MAJOR PORT AUTHORITIES IN RESPECT OF LOANS AND SECURITIES

#### A. FINANCIAL POWERS OF BOARDS OF MAJOR PORT AUTHORITIES

Power to raise  
loans and issue  
securities.

**30.** (1) The Board may for the purposes of its capital expenditure and working capital requirements raise loans in any currency or currencies from any—

(a) scheduled bank or financial institution located within India; or

(b) financial institution in any country outside India in compliance with the laws for the time being in force:

Provided that no loan or loans exceeding a sum equivalent to fifty per cent. of the capital reserves of the Board shall be raised by the Board without the previous sanction of the Central Government.

(2) The loans may be raised by the Board in open market within India and in any country outside India on port securities including but not limited to debentures, bonds and stock certificates issued by the Board or may be obtained from the Central Government or a State Government:

Provided that no loan shall be raised from and no securities shall be issued to any person resident outside India without complying with the Foreign Exchange Management Act, 1999, the circulars and guidelines issued by the Reserve Bank of India, the Foreign Direct Investment Policy issued by the Central Government and any other law for the time being in force.

42 of 1999.

(3) The holder of any port security in any form may obtain in exchange thereof, upon such terms as the Board may from time to time determine, a port security in such form as may be specified by the regulations made by the Board.

(4) The right to sue in respect of moneys secured by port securities shall be exercisable by the holders thereof subject to the provisions of the Limitation Act, 1963.

(5) Nothing contained in this Act shall be deemed to affect the power of the Boards of Major Port Authorities to raise loans under the Local Authorities Loans Act, 1914.

9 of 1914.

(6) Notwithstanding anything contained in this Act, the Board may borrow moneys by means of temporary overdraft or otherwise by pledging the securities held by the Board in its reserve funds or on the security of the fixed deposits of the Board in its banks:

Provided that such temporary overdrafts or other loans shall not be taken, without previous sanction of the Central Government, if at any time in any year the amount of such overdrafts or other loans exceeds a sum equivalent to fifty per cent. of the capital reserves of the Board:

Provided further that all moneys so borrowed by temporary overdrafts or otherwise shall be expended for the purposes of this Act.

26 of 1881.	<b>31.</b> Notwithstanding anything contained in section 15 of the Negotiable Instruments Act, 1881, no indorsement of a port security, which is transferable by indorsement, shall be valid unless made by the signature of the holder inscribed on the back of the security itself.	Endorsements to be made on security itself.
26 of 1881.	<b>32.</b> Notwithstanding anything contained in the Negotiable Instruments Act, 1881, a person shall not by reason only of his having indorsed any port security be liable to pay any money due, either as principal or as interest, thereunder.	Indorser of security not liable for amount thereof.
	<b>33.</b> (1) The person to whom a duplicate or new security has been issued under the regulations made by the Board under section 22 shall be deemed for the purposes of sub-section (2) to have been recognised by the Board as the holder of the security; and a duplicate security or a new security so issued to any person shall be deemed to constitute a new contract between the Board and such person and all persons deriving title thereafter through him.	Recognition as holder of port securities in certain cases and legal effect thereof.
	(2) No recognition by the Board of a person as the holder of a port security shall be called in question by any court so far as such recognition affects the relations of the Board with the person recognised by it as the holder of a port security or with any person claiming an interest in such security; and any such recognition by the Board of any person shall operate to confer on that person a title to the security or securities subject only to a personal liability to the rightful owner of the security for money had and received on his account.	
36 of 1963.	<b>34.</b> Notwithstanding anything contained in the Limitation Act, 1963—  (a) on payment of the amount due on a port security on or after the date on which payment becomes due; or  (b) when a duplicate security has been issued under the regulations made by the Board under section 22; or  (c) when a new security has issued upon conversion, consolidation or sub-division under the regulations made by the Board,  the Board shall be discharged from all its liability in respect of the security so paid or in place of which a duplicate or new security has been issued—  (i) in the case of payment after the lapse of six years from the date on which payment was due;  (ii) in the case of a duplicate security after the lapse of six years from the date of the issue thereof or from the date of the last payment of interest on the original security, whichever date is later;  (iii) in case of a new security issued upon conversion, consolidation or sub-division after the lapse of six years from the date of the issue thereof.	Discharge in certain cases.
	<b>35.</b> If a loan is raised by the Board of any Major Port and a security other than the port security is required to be furnished to secure such loan, the Board of that Major Port may secure such loan against—  (a) the port assets other than—  (i) any sum set apart by the Board—  (A) as the sinking fund for the purpose of paying off any loan; or  (B) for the payment of pension to its employees; or  (ii) the provident or pension fund established by the Board; and  (b) income of the Board from the port assets and services.	Security for loans taken out by Boards of Major Port Authorities.
	<b>36.</b> The Board may apply any sums, out of moneys which may come into its hands under the provisions of this Act and which can be so applied without prejudicing the security of the other holders of port securities, in repaying to the Government any sum which may remain due to it in respect of the principal account of any loan although the time fixed for the repayment of the same may not have arrived.	Power of Board to repay loans to Government before due date.

Establishment and application of sinking fund.

**37.** (1) In respect of loans raised by the respective Board of the Major Port Authorities under this Act, which are not repayable before the expiration of one year from the date of such loans, such Boards shall set apart out of their income enough sinking fund or funds to service or liquidate such loans for a period of at least one year.

(2) Before the commencement of this Act, if any sinking fund had been established by the Board of Trusts constituted under the Major Port Trusts Act, 1963 in respect of a loan raised by it for which loan, the Board is liable under this Act and the sinking fund so established by that Board of Trusts shall be deemed to have been established by the Board under this Act. 38 of 1963.

(3) The sums so set apart by the Board under sub-section (1) and the sums forming part of any sinking fund referred to in sub-section (2) shall be applied in such manner as may be prescribed.

(4) The Board may apply the whole or any part of the sums accumulated in any sinking fund in or towards the discharge of the moneys borrowed for the repayment of which the fund has been established:

Provided that The Board pays into the fund in each year, and accumulates until the whole of the moneys borrowed are discharged a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.

Existing loans and securities to continue.

**38.** Notwithstanding anything contained in this Act, all loans raised or borrowed and all securities issued or pledged in relation to a Major Port prior to the commencement of this Act shall continue to be governed in accordance with the provisions of the Major Port Trusts Act, 1963. 38 of 1963.

#### B. GENERAL ACCOUNTS OF MAJOR PORT AUTHORITIES

General accounts of Board.

**39.** All moneys received by or on behalf of the Board under the provisions of this Act shall be credited to such general account or accounts of the Board which the Board may from time to time generally open with the scheduled banks as per the guidelines of the Ministry of Finance, Government of India.

Application of money in general accounts.

**40.** (1) The moneys credited to the general account or accounts under section 39, shall be applied by the Board in payment of the following charges, namely:—

(a) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to—

(i) the Members of the Board except Members appointed under clauses (d), (e) and (f) of sub-section (3) of section 3;

(ii) the employees of the Board; and

(iii) the surviving relatives, if any, of such employees;

(b) the cost and expenses, if any, incurred by the Board in the conduct and administration of any provident or welfare fund or loan or special fund established by the Board;

(c) the maintenance, development, security and protection of the Board and the docks, warehouses and other properties of the Board;

(d) the cost of repairs and maintenance of the property belonging to or vested in the Board and all charges upon the same and all working expenses;

(e) the costs, expenses, sums, payments and contributions to be made or incurred by the Board for the purposes provided under section 23; and

(f) any other charge or expenditure for which the Board may be legally liable.

(2) All moneys standing to the credit of the Board which cannot immediately be applied in the manner or for the purposes specified in sub-section (1) may be used for such lawful purposes as the Board may from time to time decide.

(3) Notwithstanding anything contained in section 38 and sub-sections (1) and (2), moneys received by or on behalf of the Board from non-port related use except those falling under section 59 shall be credited to a designated account and shall be applied by the Board for capital investment or for such purposes as may be prescribed.

#### C. ACCOUNTS AND AUDIT

**41.** (1) The Board shall prepare a budget, maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India or such other person as may be appointed by him in this behalf and any amount payable to him by the Board in respect of such audit shall be debitable to the general account of the Board.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Board under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

(4) The accounts of the Board, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Board and the Central Government shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.

### CHAPTER V

#### SUPERVISION OF CENTRAL GOVERNMENT

**42.** As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Central Government, the Board shall submit to the Central Government a detailed report of the administration of the Board during the preceding year ending on the thirty-first day of March, in such form as the Central Government may direct.

Administration report.

**43.** The Central Government may, at any time, order a local survey or examination of any works of the Board, or the intended site thereof and the cost of such survey and examination shall be borne and paid by the Board from and out of the moneys credited to its general account.

Power of Central Government to order survey or examination of works of Board.

**44.** (1) If, at any time, the Central Government is of the opinion that the inaction by any Board in repairing, completing, restoring, carrying out or providing any work or appliance mentioned in sub-section (2) has led to a grave emergency, the Central Government may cause such work to be restored or completed or carried out, or such repairs to be carried out or such appliance to be provided and the cost of any such restoration, completion, construction, repair or provision shall be paid by the concerned Board from and out of the moneys credited to its general account.

Power of Central Government to restore or complete works at cost of Board.

(2) The following actions or omissions may be considered to have led to grave emergency under sub-section (1), if any Board—

(a) allows any work or appliance constructed or provided by, or vested in, the Board to fall into disrepair; or

(b) does not, within a reasonable time, complete any work commenced by the Board or included in any estimate sanctioned by the Central Government; or

(c) does not, after due notice in writing, proceed to carry out effectually any work or repair or provide any appliance which is necessary in the opinion of the Central Government for the purposes of this Act.

Power of  
Central  
Government to  
take over  
management of  
Board.

**45.** (1) If, at any time, the Central Government is of the opinion—

(a) any Board is unable to perform the duties imposed on it by or under the provisions of this Act or of any other law for the time being in force; or

(b) that any Board has persistently made defaults in performance of the duties imposed upon it by or under the provisions of this Act or of any other law for the time being in force and as a result of such default, the financial position or the administration of that Board has greatly deteriorated,

the Central Government may, by notification, take over the management of that Board for such period, not exceeding twelve months at a time, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable time of not less than three months to the Board to show-cause why its management should not be taken over and shall consider the explanations and objections, if any, of that Board.

(2) Upon the publication of a notification under sub-section (1) for taking over the management of the Board,—

(a) all the Members of the Board shall, as from the date of taking over, stand removed from their respective office or position in the Board;

(b) all the powers and duties which may, by or under the provisions of this Act or of any other law for the time being in force, to be exercised or performed by or on behalf of the Board, shall be exercised and performed by such person or persons as the Central Government may direct in this behalf until the Board is reconstituted under clause (b) of sub-section (3);

(c) all property vested in the Board shall, until the Board is reconstituted under clause (b) of sub-section (3), vest in the Central Government.

(3) On the expiration of the period of taking over specified in the notification issued under sub-section (1) or at any time prior to such expiration, the Central Government may by notification —

(a) extend the period of taking over the management of the Board for such further term, not exceeding twelve months, as it may consider necessary; or

(b) reconstitute the Board by making fresh appointment to all posts of the Board on such terms and conditions as the Central Government may consider necessary, and in such case, any persons who stand removed from their offices under clause (a) of sub-section (2) shall be deemed disqualified for appointment.

Laying of  
report.

**46.** For any action or actions taken under sections 42 and 44 and any notification issued under section 45, the Central Government shall prepare and cause a full report of any such action or actions and notification and the circumstances leading to such action to be laid before each House of Parliament.

Power of  
Central  
Government to  
exempt from  
obligation to  
use port assets.

**47.** Notwithstanding anything contrary in this Act, the Central Government may, in the interest of security of the nation or on account of a grave emergency, by general or special order, from time to time, permit certain specified vessels or classes of vessels to discharge or ship goods or certain specified goods or classes of goods, at such place in a Major Port or within the Major Port approaches, in such manner, during such period and subject to such payments to the concerned Board in relation to such Major Port or such Major Port approaches and on such conditions as the Central Government may think fit.

**48.** The Board shall not sell, alienate or divest its assets, properties, rights, powers and authorisation vested in it under this Act without the prior sanction of the Central Government.

Board not to sell, alienate or divest its assets, properties, rights, powers and authorisations without sanction of Central Government.

**49.** (1) The Central Government or a State Government, from the date of commencement of this Act, shall have, in respect of loans made by it to the Board or to any other authority for the repayment of which the Board is legally liable on such commencement, the same remedies and priority as applicable under the Major Port Trusts Act, 1963 as if this Act had not been passed.

Remedies of Government in respect of loans made to Board.

38 of 1963.

(2) For prospective loans by the Central or State Governments or of loans made by any other authority, the remedies would be the same as available to holders of port securities issued by the Board unless priority or greater rights are granted by the Board in respect of such loans within the respective loan agreements.

**50.** (1) Without prejudice to the foregoing provisions of this Chapter, the Board shall in discharge of its functions under this Act, be bound by such directions on question of policy as the Central Government may give in writing from time to time:

Power of Central Government to issue directions.

Provided that the Board shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government on whether a question is one of policy or not shall be final and binding on the Board.

## CHAPTER VI

### CONSTITUTION OF ADJUDICATORY BOARD

**51.** (1) The Central Government may, by notification, constitute an Adjudicatory Board for adjudicating disputes relating to Major Ports and such Board shall consist of a Presiding Officer and such other members not exceeding two, as may be appointed by the Central Government.

Constitution of Adjudicatory Board and its functions.

(2) The head office of the Adjudicatory Board shall be in Mumbai:

Provided that the Adjudicatory Board may hold its sittings at such other places as the Presiding Officer may decide from time to time having taken into consideration the convenience to decide the disputes referred to it.

(3) The Adjudicatory Board referred to in sub-section (1) shall perform the following functions, namely:—

(a) the functions envisaged to be carried out by the erstwhile Tariff Authority for Major Ports arising from the Tariff Guidelines of 2005, 2008 and 2013 and tariffs orders issued by the said Authority;

(b) to receive and adjudicate reference on any dispute or differences or claims related to rights and obligations of Major Ports and Public Private Partnership concessionaires or captive users for dedicated berth within the framework of their concession agreements and to pass orders after considering and hearing all the parties involved in the dispute:

Provided that any party not agreeable with order of the Adjudicatory Board may resort to arbitration as provided under the provisions of their respective concession agreements;

(c) to appraise, review the stressed Public Private Partnership projects as referred by the Central Government or the Board of the Major Ports and to suggest measures to revive such projects; and

(d) to look into the complaints received from port users against the services and terms of service rendered by the Major Ports or the private operators operating in the Major Ports and to pass necessary orders after hearing the parties concerned:

Provided that any party not satisfied with the order of the Adjudicatory Board shall be free to resort to arbitration or any other available legal remedy.

(4) A person shall not be qualified for appointment as the Presiding Officer of the Adjudicatory Board unless he is, or has been, or is qualified to be, a judge of a High Court.

(5) The Presiding Officer and members of the Adjudicatory Board shall be appointed by the Central Government on the recommendation of a Select Committee consisting of such persons and in such manner as may be prescribed.

(6) The Presiding Officer and members of the Adjudicatory Board shall hold office for a term not exceeding five years from the date on which they enters upon their office or until they attain the age of seventy years, whichever is earlier.

(7) A person shall not be qualified for appointment as a member of the Adjudicatory Board unless he is an expert in the field of finance, commerce, marine, shipping and port related matters, etc., having worked in the respective field for not less than twenty years.

(8) The salaries and allowances payable to and other terms and conditions of service of the Presiding Officer and members of the Adjudicatory Board shall be such as may be prescribed:

Provided that neither the salary and allowance nor other terms and conditions of service of the Presiding Officer or members of the Adjudicatory Board shall be varied to their disadvantage after their appointment.

(9) The procedure to be adopted by the Adjudicatory Board, while discharging its functions referred to in sub-section(1) shall be such as may be prescribed.

(10) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under sub-section (1), the Adjudicatory Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(a) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Adjudicatory Board;

(b) summoning and enforcing the attendance of persons and examining them on oath;

(c) issuing commissions for the examination of witnesses or documents; and

(d) any other matter which may be prescribed.

(11) Any proceeding before the Adjudicatory Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code and the Adjudicatory Board shall be deemed to a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

(12) Subject to the provisions of this Act, every order made by the Adjudicatory Board under this Act shall be final and shall not be called in question in any suit, application, execution or other proceeding and no injunction shall be granted by any court or other authority in respect of any action taken or intended to be taken in pursuance of any power conferred by or under this Act.

## CHAPTER VII

## PENALTIES

**52.** Any person who contravenes any of the provisions of this Act or any rule, regulation or order made thereunder, shall be punishable with fine which may extend to rupees one lakh.

General provision for punishment of offences.

**53.** (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means a body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

## CHAPTER VIII

## MISCELLANEOUS

**54.** No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence punishable under this Act or any rule or regulation made thereunder.

Cognizance of offences.

**55.** No suit or other legal proceeding shall lie against the Board or any Member or employee thereof in respect of anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder, or for any deficiency of service or any consequential losses on account of deficiency in services.

Protection of acts done in good faith.

**56.** Every person employed by the Board under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Persons employed by Board of Authority to be public servants.

**57.** (1) Notwithstanding anything contained in any other law for the time being in force, the Board in exercise of the powers conferred on it by regulations made under this Act or by invoking the contractual remedies available to the Board may cancel the allotment of any premises made to any employee of the Board or any other person or evict an employee of the Board or any person in occupation of any part asset or premises or area in the port limits, by notice in writing, addressed to such allottee or employee or other person who may be in occupation or possession thereof in violation of the regulations specified or formulated by the Board:

Power to evict certain persons from premises of the Board.

Provided that such notice shall indicate the reasons for cancellation of allotment or eviction or removal along with the period within which the removal or eviction is sought and

recovery of the sums of dues in arrears and also for the extended unauthorised use of such premises.

(2) If any allottee or employee or other person is aggrieved by the order made under sub-section (1), then the said allottee or employee or other person may appeal against the order with the compensation officer so appointed by the Board within thirty days from the receipt of the order under sub-section (1).

(3) If any allottee or employee or other person refuses or fails to comply with an order made under sub-section (1), then any Magistrate of the First Class may, on application made by or on behalf of the Board, order any police officer, with proper assistance, to enter into the premises and evict any person from, and take possession of, the premises and to deliver the same to the Board or a person appointed by the Board in that behalf and the police officer may, for the purpose, use such force as may be necessary.

(4) Any such notice as is referred to in sub-section (1) may be served—

(a) by delivering or tendering it to the allottee or employee or any other person who may be in occupation or possession of the whole or any part of the premises; or

(b) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises; or

(c) by registered post; or

(d) by publishing in the local newspaper having circulation in the area.

*Explanation.*—For the purposes of this section, the expression “premises” means any land, building or part of a building which is part of port assets and includes—

(i) areas such as canteens, gardens, grounds and out-houses, if any, appertaining to such building or part of a building;

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof; and

(iii) any furniture, books or other things belonging to the Board and found in such building or part of a building.

Alternate  
remedy by suit.

**58.** Without prejudice to any other action that may be taken under this Act, the Board may recover by suit any rates, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of sale are insufficient, or any penalties payable to, or recoverable by, the Board under this Act or under any regulations made in pursuance thereof.

Corporate  
Social  
Responsibility  
and  
development of  
infrastructure  
by Board.

**59.** (1) Subject to the provisions of the Companies Act, 2013, the Board may use its funds for providing social benefits including development of infrastructure in areas of education, health, housing, accommodation, skill development, training and recreational activities within the port limits for its own employees, customers, business partners, Government and Non-Government Organisation, local communities, environment and society at large.

18 of 2013.

(2) The manner of utilisation of funds for the Corporate Social Responsibility shall be such, as may be prescribed.

Power of  
Central  
Government to  
make rules.

**60.** (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the composition of the Select Committee and the manner of appointment of the Chairperson and Deputy Chairperson of the Board under sub-section (1) of section 4;

(b) the manner of appointment of Members of Board under sub-section (3) of section 4;

- (c) the procedure for conducting of any inquiry made under sub-section (3) of section 5;
- (d) the honorarium payable to the Members of the Board under section 10;
- (e) the form and manner in which contracts shall be made by the Board under sub-section (3) of section 21;
- (f) the form, manner and fees for filing application before the Adjudicatory Board under section 29;
- (g) the manner of applying the sums under sub-section (3) of section 37;
- (h) the purposes for which the moneys received by the Board shall be applied under sub-section (3) of section 40;
- (i) the form in which and the time at which the Board shall prepare an annual report under sub-section (1) of section 41;
- (j) the salaries and allowances payable to and other terms and conditions of services of the Presiding Officer and members of the Adjudicatory Board under sub-section (8) of section 51;
- (k) the procedure to be adopted by the Adjudicatory Board, under sub-section (9) of section 51;
- (l) other functions of the Adjudicatory Board under sub-section (10) of section 51;
- (m) the manner of utilisation of funds for Corporate Social Responsibility under sub-section (2) of section 59; and
- (n) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

**61.** (1) The Board may, with the previous approval of the Central Government and after previous publication, by notification, shall make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Power of Boards of Port Authorities to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) rules of procedure for transaction of business under sub-section (1) of section 12;
- (b) rules of procedure for transaction of business under sub-section (2) of section 13;
- (c) the appointment of employees under clause (b) of sub-section (1) of section 16;
- (d) the use and development of the port assets under sub-section (2) of section 19;
- (e) the purposes of planning and development of Major Port under section 22;
- (f) the form of port security under sub-section (3) of section 30; and
- (g) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

**62.** Every rule made by the Central Government, every regulation made by the Board and every notification issued by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session, immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or notification or both Houses agree that the rule, regulation or notification should not be made, the rule, regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation or notification.

Laying of rules and regulations.

Repeal and savings.	<b>63.</b> (1) The Major Port Trusts Act, 1963 is here by repealed.	38 of 1963.
	(2) Notwithstanding the repeal of the Major Port Trusts Act, 1963 under sub-section (1),—	38 of 1963.
	(a) anything done primarily by the Board of Trustees under the Major Port Trusts Act, 1963 in respect of any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the Major Port Trusts Act, 1963, shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;	38 of 1963.
	(b) any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, trust, special purpose vehicle, joint venture, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of the repealed Major Port Trusts Act, 1963 shall, if in force at the commencement of this Act and not inconsistent with the provisions of this Act, continue to be in force, and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of this Act;	38 of 1963.
	(c) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed Major Port Trusts Act, 1963;	38 of 1963.
	(d) any person appointed to any office under or by virtue of the repealed Major Port Trusts Act, 1963 shall be deemed to have been appointed to that office under or by virtue of this Act;	38 of 1963.
	(e) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored;	
	(f) any documents and any funds constituted and established under the repealed enactments shall be deemed to be documents and funds constituted or established under the corresponding provisions of this Act;	
	(g) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Act before any Court shall, subject to the provisions of this Act, continue to be heard and disposed of by the said Court; and	
	(h) any inspection, investigation or inquiry ordered to be done under the repealed Major Port Trusts Act, 1963 shall continue to be proceeded with as if such inspection, investigation or inquiry has been ordered under the corresponding provisions of this Act.	38 of 1963.
Power to remove difficulties.	(3) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of the Major Port Trusts Act, 1963.	10 of 1897. 38 of 1963.
	<b>64.</b> (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:	
	Provided that no such order shall be made in respect of a Major Port after the expiry of a period of three years from the date on which this Act is made applicable to that Major Port.	

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**65.** Notwithstanding anything contained in this Act, the Board of Trustees functioning as such immediately before the commencement of this Act shall continue to so function until the Board for each Major Port is constituted under this Act, but on the constitution of such Board, under this Act, the Members of the Board of Trustees holding office before such constitution shall cease to hold office.

Transitional  
provision.

## STATEMENT OF OBJECTS AND REASONS

The Major Ports Trust Act was enacted in the year 1963 for constitution of Port Authorities for certain Major Ports in India and to vest the administration, control and management of such ports in such authorities and for matters connected therewith.

2. In India, the Major Port Trusts were created by the Central Government in the 1960's following the Service Port Model. Each of the Major Port Trust so constituted is being governed by a Board of Trustees. The powers of these Trustees are limited as they are bound by the directions on policy matters and orders of the Central Government. The current model of the Board of Trustees has operational restrictions due to diverse representation of the Trustees. With the growth and development of private ports, the Major Ports are facing severe competition and difficulties in implementing the changes which may help the Major Ports compete in the evolving market conditions. The regulation of tariff in the Major Ports by the Tariff Authority under the Major Port Trusts Act, 1963 and their administrative control by the Central Government are some of the critical factors hindering their growth and development.

3. In view of the above, and to provide greater autonomy, flexibility to the Major Ports and to professionalise their governance, it is proposed to repeal the Major Port Trusts Act, 1963 and to replace it with a new legislation, namely the Major Ports Authorities Bill, 2016.

4. The proposed Major Port Authorities Bill, 2016, *inter alia*, provides for the following, namely:—

(i) to constitute the Board of Port Authority for each Major Port in the place of the Board of Trustees;

(ii) the Board for each Major Port Authority shall consist of—a Chairperson, a Deputy Chairperson, one Member each from the (a) concerned State Government in which the Major Port is situated; (b) Ministry of Railways; (c) Ministry of Defence; and (d) Customs, Department of Revenue, minimum three and not exceeding four Independent Members, one Member representing the interest of the employees and one Member nominated by the Central Government;

(iii) to enable the Board of Port Authority—

(a) to use its property, assets and funds in such manner and for such purposes as it may deem fit for the benefit of that Major Port;

(b) to enter into and perform any contract necessary for the performance of its functions under the proposed legislation;

(c) to make regulations for the purposes of operations, development and planning of the Major Port;

(d) to frame the scales of rates for assets and services available at Major Port;

(e) to claim lien on such goods and to seize and detain the same until such rates and rents are fully paid;

(iv) to empower the Board of Port Authority to raise the loans and issue securities for the purposes of the capital expenditure and working capital requirements of such Port Authority;

(v) empowering the Central Government—

(a) to order survey or examination of the works of the Port Authority;

(b) to restore and complete the works at the cost of the Port Authority;

(c) to take over the management of the Port Authority in certain circumstances;

(d) to exempt certain specified vessels from obligation to use port assets in the interest or security of the nation or on account of a grave emergency; and

(e) to issue directions to every Port Authority;

(vi) to constitute an Adjudicatory Board for adjudication of disputes among Major Ports, Public Private Partnership concessionaries and captive users. This Adjudicatory Board shall consist of a Presiding Officer and such other Members not exceeding two, as may be appointed by the Central Government; and

(vii) to make a provision for Corporate Social Responsibility measures within the port limits.

5. The Notes on Clauses explain in detail the various provisions contained in the Bill.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 15th December, 2016.*

NITIN GADKARI

*Notes on Clauses*

*Clause 1.*—This clause relates to the short title and commencement of the proposed legislation and enables the Central Government to appoint a date with respect to the commencement of the proposed legislation.

*Clause 2.*—This clause contains the definitions of various expressions used in the proposed legislation.

*Clause 3.*—This clause lays down the provisions for the constitution and composition of the Board of Major Port Authority. The Board shall consist of a Chairperson, a Deputy Chairperson, one Member each from the (a) concerned State Government in which the Major Port is situated; (b) Ministry of Railways; (c) Ministry of Defence; and (d) Customs, Department of Revenue, minimum three and not exceeding four Independent Members, one Member representing the interest of the employees and one Member nominated by the Central Government.

*Clause 4.*—This clause lays down the provisions relating to the qualification, experience and the manner of appointment of the Chairperson, Deputy Chairperson and Members of the Board.

*Clause 5.*—This clause lays down the circumstances in which the Chairperson, Deputy Chairperson and other Members of the Board shall be ineligible for appointment.

*Clause 6.*—This clause lays down the term of office of the Chairperson, Deputy Chairperson and Members.

*Clause 7.*—This clause provides that the Members of the Board shall disclose their interests which are likely to affect their official functions within the Board.

*Clause 8.*—This clause lays down the procedure and manner in which the Chairperson, Deputy Chairperson and Members of the Board may resign from their office.

*Clause 9.*—This clause lays down the circumstances under which the Chairperson, Deputy Chairperson or any Member of the Board shall be removed from his office.

*Clause 10.*—This clause relates to fees and honorarium payable to Members appointed from amongst the Members referred to in clauses (c), (d) and (f) of sub-section (1) of section 3.

*Clause 11.*—This clause provides that the Chairperson and in his absence, the Deputy Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Major Port Authority and he shall, in addition to presiding over the meetings of the Board, exercise supervision and control over the acts of all the employees of the Major Port Authority, in matters of executive administration and in matters concerning the accounts and records of such Board.

*Clause 12.*—This clause lays down the procedure and manner in which the meetings of the Board shall be conducted.

*Clause 13.*—This clause lays down the power of the Board to appoint Committees and delegation of powers to such Committees.

*Clause 14.*—This clause provides that Board may, for the purpose of discharging its powers, functions and duties, by general or special order in writing, specify (a) the powers and duties conferred or imposed upon the Board by or under this Act which may also be exercised or performed by the Chairperson; and (b) the powers and duties conferred or imposed on the Chairperson by or under this Act, which may also be exercised or performed

by the Deputy Chairperson or any officer or officers of the Board and the conditions and restrictions, if any, subject to which the powers and duties may be exercised and performed.

*Clause 15.*—This clause provides that any vacancy, defect or irregularity in the constitution of the Board or appointment of the Members shall not invalidate the proceedings of the Board.

*Clause 16.*—This clause, *inter alia*, specifies the relevant authorities empowered to make appointments on different posts in the Major Port.

*Clause 17.*—This clause provides that the Board shall prepare and submit to the Central Government, after every five years, a list of the employees of the Board of the Major Port Authority indicating therein the designations and grades of employees and the salaries, fees and allowances which are proposed to be paid to them.

*Clause 18.*—This clause provides that the Board of the Port Authority shall be deemed to be the successor of the Board of Trustees of Major Port and all assets, contracts, obligations, liabilities and employees serving under the Board of Trustees under the Major Port Trusts Act, 1963 shall transferred to the Board of the Port Authority constituted under the proposed legislation.

*Clause 19.*—This clause lays down the provisions relating to usage of property, assets, etc, by the Board. This clause further lays down that any contract or arrangement to be entered by the Board for sale of land or immovable property or for lease of land or immovable property for port related use for a term exceeding forty years and for any purpose other than the purposes specified in clause 22 for a term exceeding twenty years shall be subject to the prior approval of the Central Government. This clause also provides that the tenure for lease of land or immovable property by the Board for Public Private Partnership projects shall be subject to the policy notified by the Central Government in respect of such Public Private Partnership projects.

*Clause 20.*—This clause lays down the procedure for the Board to acquire immovable property through the Central Government or State Government by payment of compensation under the Right to Fair Compensation and Transparency in Rehabilitation and Resettlement Act, 2013.

*Clause 21.*—This clause empowers the Board to enter into contracts for performance of its functions under the proposed legislation. This clause further provides that the contracts shall be entered into by the Chairperson or any authorised officer on behalf of the Board.

*Clause 22.*—This clause empowers the Board to make different regulations for the planning and development of the Major Port and such regulations shall not be inconsistent with the Customs Act, 1962 and the rules made thereunder.

*Clause 23.*—This clause empowers the Board to frame and fix the scale of rates for assets and services available at Major Ports. This clause further provides that the fixation and implementation of such rates, etc. shall not be (a) with retrospective effect; (b) applicable for Public Private Partnership projects already awarded by the Board or the Central Government; (c) in derogation of the rules made by or directives of the Central Government in this behalf; (d) inconsistent with the provisions of the Competition Act, 2002; and (e) inconsistent with the provisions of any other law for the time being in force.

*Clause 24.*—This clause empowers the Board to have lien over the goods in respect of which any fee or rent is leviable and due to the Board under the proposed legislation. This clause further provided that the Board also has powers to detain such goods until the outstanding fee or rate is fully paid to the Board.

*Clause 25.*—This clause relates to ship-owner's lien for freight and other charges and provides that if the master or owner of any vessel or his agent, at or before the time of landing from such vessel or any goods at any port asset belonging to or in occupation of the Board, gives to such Board a notice in writing that such goods are to remain subject to a lien for

freight or other charges payable to the ship owner, to an amount to be mentioned in such notice, such goods shall continue to be liable to such lien to such amount.

*Clause 26.*—This clause lays down the circumstances under which the Board may sell the goods that have been passed or placed into its custody upon landing at the Major Port and also empowers the Board to apply the sale proceeds of such goods in the manner stipulated under section 150 of the Customs Act, 1962.

*Clause 27.*—This clause empowers the Board to create specific master plan in respect of development of infrastructure within the port limits. The said master plan shall be independent of any local or State Government regulations.

*Clause 28.*—This clause relates to recovery of rates and charges by distraint of vessel and empowers the Board to detain or arrest any vessel in respect of which the rates or penalties are not paid as per the provisions of the proposed legislation.

*Clause 29.*—This clause provides that any person aggrieved by the action or decision of the Board under clauses 19 to 28 (except clause 25) of the Act to file an application against such action or decision before the Adjudicatory Board.

*Clause 30.*—This clause empowers the Board to raise loans and issue port securities for capital expenditure and working capital requirements of the Port Authority from any Scheduled Bank or financial institution located in India or from any financial institutions in any country outside India without prior approval of the Central Government up to fifty-one per cent. of the capital reserves of the Board.

*Clause 31.*—This clause relates to indorsements to be made on port security such as debentures, bonds and stock certificates issued by the Board and states that notwithstanding anything contained in section 15 of the Negotiable Instruments Act, 1881, no endorsement of a port security, which is transferable by indorsement, shall be valid unless made by the signature of the holder inscribed on the back of the security itself.

*Clause 32.*—This clause provides that the indorser of security not liable for amount thereof and states that notwithstanding anything contained in the Negotiable Instruments Act, 1881, a person shall not by reason only of his having indorsed any port security be liable to pay any money due, either as principal or as interest, thereunder.

*Clause 33.*—This clause provides for recognition of the person to whom a duplicate or new port security has been issued under the regulations made by the Board under clause 22 as the holder of the security. This clause further provides that such recognition by the Board of a person as the holder of a port security shall not be called in question by any court so far as such recognition affects the relations of the Board with the person recognised by it as the holder of a port security or with any person claiming an interest in such security. This clause also provides that such recognition by the Board of any person shall operate to confer on that person a title to the security or securities subject only to a personal liability to the rightful owner of the security for money had and received on his account.

*Clause 34.*—This clause lists out the events and circumstances in which the Board of Major Port Authority shall be discharged from its liability to make payments on amount due on port securities.

*Clause 35.*—This clause lists out different securities (other than the port security) that the Board of Major Port Authority may secure for raising loans.

*Clause 36.*—This clause relates to the power of the Board to repay loans to the Government before due date.

*Clause 37.*—This clause requires the Board to establish sinking fund in respect of loans raised by the Board which are not repayable before the expiry of one year from the date of such loan. This clause further provides that the Board is also required to set apart enough funds from its income as sinking fund and apply those funds to service or liquidate its loans.

*Clause 38.*—This clause clarifies that the loans raised and securities issued or pledged by the Major Ports before the commencement of the proposed legislation shall continue to be governed by the provisions of the Major Port Trusts Act, 1963.

*Clause 39.*—This clause provides that all moneys received by the Board shall be credited to the general accounts of the Board which it may open with the Scheduled Banks as per the guidelines of the Ministry of Finance, Government of India.

*Clause 40.*—This clause lays down the purposes for which the Board shall apply the moneys credited into the general accounts of the Board. This clause further provides that the provision includes payment of salaries, fees, allowances, pension, etc., of the Members and employees of the Board, cost and expenses incurred by the Board in the conduct and administration of any provident or welfare fund established by the Board, maintenance, development, security and protection of the Board, docks, warehouses and other properties of the Board, and the like.

*Clause 41.*—This clause relates to the accounts and audit of the Board and requires the Board to prepare a budget and an annual statement of its accounts. This clause further provides that the accounts of the Board shall be audited by the office of the Comptroller and Auditor-General of India and the audited report as certified by the Comptroller and Auditor-General shall be forwarded to the Central Government for presentation before both the Houses of Parliament.

*Clause 42.*—This clause requires the Board to submit to the Central Government, an annual report in relation to the administration of the Major Port.

*Clause 43.*—This clause empowers the Central Government to order a survey or examination of the works of the Board and the cost of such survey and examination by the Central Government shall be borne and paid by the Board from and out of the moneys credited to its general account.

*Clause 44.*—This clause relates to the power of the Central Government to restore or complete works at the cost of the Board in case of non-completion or inaction of the Board to complete such works has led to grave emergency. This clause further provides the circumstances under which the actions or omissions of the Board may be considered to have led to grave emergency.

*Clause 45.*—This clause provides the circumstances under which the Central Government may take over the management of the Board.

*Clause 46.*—This clause requires the Central Government to prepare and lay report of actions taken under clauses 42, 44 and 45 before each House of the Parliament.

*Clause 47.*—This clause relates to the power of the Central Government to exempt from obligation to use port assets and states that the Central Government may, in the interest of security of nation or on account of grave emergency, by general or special order, from time to time, permit certain specified vessels or classes of vessels to discharge or ship goods or certain specified goods or classes of goods, at such place in a Major Port or within the Major Port approaches, in such manner, during such period and subject to such payments to the concerned Board in relation to such Major Port or such Major Port approaches and on such conditions as the Central Government may think fit.

*Clause 48.*—This clause restricts the Board not to sell, alienate or divest its assets, properties, rights, powers and authorisation vested in it under the Act without the prior sanction of the Central Government.

*Clause 49.*—This clause, *inter alia*, provides that the Central and State Governments in respect of loans given by it to the Board or of loans given to any other authority for the repayment of which the Board is legally liable on the commencement of the Act, the same remedies and priority as applicable under the Major Port Trusts Act, 1963, as if the new Act had not been passed.

*Clause 50.*—This clause states that the Board shall in discharge of its functions under the Act, be bound by the directions on questions of policy as the Central Government may give in writing from time to time. This clause further states that the Board shall be given an opportunity to express its views before any direction is given by the Central Government; but the decision of the Central Government on whether a question is one of policy or not shall be final and binding on the Board.

*Clause 51.*—This clause provides for the constitution of the Adjudicatory Board for hearing the application against any person aggrieved by any action of the Board while exercising its powers under sections 19 to 28 (except section 25).

*Clause 52.*—This clause relates to general provision for punishment of offences and states that any person who contravenes any of the provisions of the Act or any rule, regulation or order made thereunder, shall be punishable with fine which may extend to rupees one lakh.

*Clause 53.*—This clause relates to the offences by companies and *inter alia*, states that if the person committing an offence under the proposed legislation is a company, then, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. This clause further provides that no such person shall be liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

*Clause 54.*—This clause relates to cognizance of offences and states that no court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence punishable under the proposed legislation or any rule or regulation made thereunder.

*Clause 55.*—This clause relates to protection of acts done in good faith and states that no suit or other legal proceeding shall lie against the Board or any Member or employee thereof in respect of anything which is in good faith done or intended to be done under the Act or any rule or regulation made thereunder, or for any deficiency of service or any consequential losses on account of deficiency in services.

*Clause 56.*—This clause stipulates that every person employed by the Board under the Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

*Clause 57.*—This clause relates to power of the Board to evict certain persons from premises of the Board and stipulates that the Board in exercise of the powers conferred on it by regulations made under the Act or by invoking the contractual remedies available to the Board may cancel the allotment of any premises made to any employee of the Board or any other person or evict an employee of the Board or any person in occupation of any port asset or premises or area in the port limits, by notice in writing, addressed to such allottee or employee or other person who may be in occupation or possession thereof in violation of the regulations specified or formulated by the Board.

*Clause 58.*—This clause entitles the Board with an alternate remedy to recover by suit any rates, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of the sale are insufficient, or any penalties payable to, or recoverable by, the Board under the Act or under any regulations made in pursuance thereof.

*Clause 59.*—This clause relates to Corporate Social Responsibility of the Major Ports and requires the Board of Port Authorities to utilise funds for providing social benefits including development of infrastructure in areas of education, environment, health, housing, skill development, training, etc., within the port limits for its employees, customers, business partners, Non-Government Organisations and society at large.

*Clause 60.*—This clause provides that the Central Government may, by notification make rules for carrying out the provisions of the Act.

*Clause 61.*—This clause provides that the Board may, with the prior approval of the Central Government, by notification, make regulations consistent with the provisions of the Act and the rules made thereunder.

*Clause 62.*—This clause provides that every rule, regulation and notification made under the Act shall be laid, as soon as may be after it is made, before each House of Parliament.

*Clause 63.*—This clause relates to repeal of the Major Port Trusts Act, 1963 and saving of certain actions taken under the said Act.

*Clause 64.*—This clause relates to power to remove difficulties and provides that if any difficulty arises in giving effect to the provisions of the proposed legislation, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the Act, as appears to it to be necessary or expedient for removing the difficulty.

*Clause 65.*—This clause relates to the transitional provision and provides that the Board of Trustees functioning as such immediately before the commencement of the Act shall continue to so function until the Board for each Major Port is constituted under the proposed legislation, but on the constitution of such Board under the proposed legislation, the Members of the Board of Trustees holding office before such constitution shall cease to hold office.

## FINANCIAL MEMORANDUM

Clause 23 of the Major Port Authorities Bill, 2016 Bill empowers the Board of each Major Port authority to frame scale of rates for services to be performed or made available, and for access to and usage of the port assets.

2. Clause 30 of the Bill empowers the Board to raise loans for capital expenditure and working capital requirements of the Port Authority from any Scheduled Bank or financial institution located in India or from financial institutions in any country outside India without prior approval of the Central Government upto fifty per cent. of the capital reserves of the Board.

3. Clause 37 of the Bill, *inter alia*, requires the Board to establish sinking fund in respect of loans raised by the Board which are not repayable before the expiry of one year from the date of such loan.

4. Clause 39 of the Bill provides that all moneys received by or on behalf of the Port Authority under the provisions of this Act shall be credited to such general account or accounts of the Port Authority which the Board may from time to time generally open with the Scheduled Banks as per the guidelines of the Ministry of Finance, Government of India.

5. Clause 40 of the Bill requires that the moneys credited in the general account shall be applied by the Port Authority for payment of such charges and for such purposes as mentioned in the said clause.

6. The Bill does not involve any other expenditure from the Consolidated Fund of India, either recurring or non-recurring.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 60 of the Major Port Authorities Bill, 2016 seeks to empower the Central Government to make rules for—(a) the composition the Select Committee and the manner of appointment of the Chairperson and Deputy Chairperson of the Board under sub-section (1) of section 4; (b) the manner of appointment of members of the Board under sub-section (3) of section 4; (c) the procedure for conducting any inquiry made under sub-section (3) of section 5; (d) the honorarium payable to the Members of the Board under section 10; (e) the form and manner in which contracts shall be made by the Board under sub-section (3) of section 21; (f) the form, manner and fees for filing application before the Adjudicatory Board under section 29; (g) the manner of applying the sums under sub-section (3) of section 37; (h) the purposes for which the moneys received by the Board shall be applied under sub-section (3) of section 40; (i) the form in which and the time at which the Board shall prepare an annual report under sub-section (1) of section 41; (j) the salaries and allowances payable to and other terms and conditions of services of the Presiding Officer and members of the Adjudicatory Board under sub-section (8) of section 51; (k) the procedure to be adopted by the Adjudicatory Board, under sub-section (9) of section 51; (l) other functions of the Adjudicatory Board under sub-section (10) of section 51; (m) the manner of utilisation of funds for Corporate Social Responsibility under sub-section (2) of section 59; and (n) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

2. Clause 61 of the Bill empowers the Board, with the previous approval of the Central Government, by notification, to make regulations consistent with the provisions of the Act and the rules made thereunder to provide for — (a) rules of procedure for transaction of business under sub-section (1) of section 12; (b) rules of procedure for transaction of business under sub-section (2) of section 13; (c) the appointment of employees under clause (b) of sub-section (1) of section 16; (d) the use and development of the port assets under sub-section (2) of section 19; (e) the purposes of planning and development of Major Port under section 22; (f) the form of port security under sub-section (3) of section 30; and (g) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

3. The matters in respect of which the aforementioned rules and regulations may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

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ANOOP MISHRA  
*Secretary General*